



# Administrative Plan

Revised: July 1, 2025

## Wichita Falls Housing Division

# Housing Choice Voucher Program

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## **INTRODUCTION**

The Housing Choice Voucher Program (previously known as Section 8) was enacted as part of the Housing and Community Development Act of 1974, that recodified the U.S. Housing Act of 1937. The Act has been amended from time to time, and its requirements, as they apply to the Housing Choice Voucher (HCV) Program, are described in and implemented throughout this Administrative Plan, known hereafter as the “Plan”.

The tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the **City of Wichita Falls Housing and Development Services Division, known hereafter as the “Housing Division” or the “PHA”**. The purpose of the HCV program is to provide rental assistance to eligible families. The rules and regulations of the HCV program are determined by the U.S. Department of Housing and Urban Development (HUD). Under these regulations, the Wichita Falls Housing Division is afforded discretion in certain areas of operation of the program. These areas are described in this Plan.

The officials of the Housing Division are known as the Mayor and Council Members, or collectively, as the City Council, and the City Manager. These officials generally serve in the same capacity as the directors of a corporation, establishing policies under which the Housing Division conducts business, ensuring that policies are followed by staff and ensuring that the Housing Division is successful in its mission. The staff is responsible for preserving and expanding the agency’s resources and assuring the HCV program’s continued viability.

The primary contact for the Housing Division is the Housing Supervisor, hired by the Neighborhood Services Manager/City’s Director of Development Services/Assistant City Manager of the City of Wichita Falls. The Housing Supervisor is directly responsible for carrying out the Department of Housing and Urban Development’s (HUD) HCV rules and regulations, program policies, the City’s personnel policies, as well as all federal, state and local fair housing laws and regulations. The Housing Supervisor and the Neighborhood Services Manager are delegated the responsibility for hiring, training and supervising of the Housing Division’s staff in order to manage the day-to-day operations of the Housing Division to ensure compliance with federal and state laws and directives for the programs managed and budgeting and financial planning for the agency.

## **CHAPTER 1. OVERVIEW OF PROGRAM AND PLAN INTRODUCTION**

### **1 – A. HOUSING DIVISION MISSION STATEMENT**

The mission of the City of Wichita Falls Housing Division is to encourage independence, provide housing assistance and family stability throughout the city to the families we serve, by following HUD guidelines with consistent, professional customer service and teamwork.

### **1 – B. LOCAL GOALS AND HOUSING DIVISION’S COMMITMENT TO ETHICS AND SERVICE [24 CFR 982.1]**

The Housing Division has the following goals for the program:

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

The Housing Division will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

## **1 – C. SPECIAL PROGRAMS**

Project Based Voucher (PBV): In addition to the Housing Choice Voucher Program, the Housing Division administers a small number of Project Based Voucher units. The policies for administering the City of Wichita Falls Project based voucher program are located Chapter 14 of this plan.

## **1 – D. PURPOSE OF THE PLAN [24 CFR 982.54]**

The Plan is required by HUD. The purpose of the Plan is to establish policies for carrying out the HCV Program administered by the City of Wichita Falls in a manner consistent with HUD requirements and local goals and objectives contained in the City of Wichita Falls' Five Year and Annual Agency Plan. The Plan is a supporting document to the Five Year and Annual Agency Plan, and is available for public review as required by CFR 24 Part 903.

The Housing Division is responsible for complying with all changes in HUD regulations pertaining the administration of the HCV program by the City of Wichita Falls. If such changes conflict with this Plan, HUD regulations will have precedence. The Housing Division will revise this Plan as needed to comply with changes in HUD regulations. The original Plan and any changes must be formally adopted by the City Council, and the revised section must be documented in the Five Year and Annual Agency Plan, and a copy provided to HUD. The City Council, acting as the Housing Agency's Board, must formally adopt the administrative plan and any revisions. The administrative plan becomes the PHA's "official" policy when it is approved by the Council.

Applicable regulations include:

24 CFR Part 5: General Program Requirements

24 CFR Part 8: Nondiscrimination

24 CFR Part 35: Lead-Based Paint

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

24 CFR Part 983: Project-Based Vouchers

24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

Local rules that are made part of this Plan are intended to promote local housing objectives consistent with the intent of the federal housing legislation.

## **1 – E. CONTENTS OF THE PLAN [24 CFR 982.54]**

The HUD regulations at [24 CFR 982.54] define the policies that must be included in the administrative plan. They are as follows:

- Selection of applicants from the waiting list: including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the Waiting List. *(Chapter 4)*
- Issuing or denying vouchers: including the PHA's policies regarding the issuance or denial of vouchers, and its policies governing the extension or suspension of the voucher term. The Plan must specify the circumstances under which additional time will be allowed and how the PHA will determine the length of any extension or suspension. *(Chapter 6)*
- Denial or termination of assistance: standards for denying admission or terminating assistance. *(Chapter 3 & 11)*
- Special provisions for the use of targeted vouchers: The administrative plan must describe any special rules that will be used in the administration of HUD funding targeted for special purposes or specific categories of applicants. The administrative plan must describe who is qualified and how families will be selected for the targeted vouchers. *(Chapter 4)*
- Occupancy Policies: Including the definition of what groups of persons qualify as a "family;" definitions of when a family is considered to be "continuously assisted;" standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 24 CFR 982.553; and Policies concerning residency by a foster child, foster adult, or live-in aide, including defining when PHA consent for occupancy by a foster child, foster adult, or live-in aide must be given or may be denied; *(Chapter 3 and Chapter 11)*
- Encouraging owners outside areas of poverty or minority concentration. *(Chapter 8)*
- Assistance to families that include persons with disabilities: including reasonable accommodations. *(Chapter 2)*
- Assistance to be provided to applicants and participants claiming illegal discrimination. *(Chapter 2)*
- The PHA's policy on screening of applicants for family behavior or suitability for tenancy. *(Chapter 3)*
- Information to be provided about a family to prospective owners. *(Chapter 6)*
- PHA policies denying owner participation in the program. *(Chapter 8)*
- PHA subsidy standards. *(Chapter 6)*
- Length of time a family may be absent from the dwelling unit. *(Chapter 6 & 11)*
- Eligibility in case of a family dissolution. *(Chapter 3)*

- Informal review procedures for Applicants and Informal hearing procedures for Participants. (Chapter 3 & 12)
- Process for establishing and revising payment standards: Including whether the PHA has voluntarily adopted the use of Small Area Fair Market Rents (SAFMRs); a description of how the PHA will administer decreases in the payment standard amount for a family continuing to reside in a unit for which the family is receiving assistance; and if the PHA establishes different payment standard amounts for designated areas within its jurisdiction, including exception areas, the criteria used to determine the designated areas and the payment standard amounts for those designated areas. (Chapter 13)
- Method for determining the rent to the owner is reasonable. (Chapter 7)
- Policies on the use of special housing types. (Chapter 7)
- Policies on payment of monies owed by a family to the PHA. (Chapter 13)
- Interim Reexaminations of income and household composition policies: Including the frequency of determinations of family income, and income-determination practices, including whether the PHA will accept a family declaration of assets. (Chapter 9)
- Family moves: Including Restrictions, if any, on the number of moves by a participant family. (Chapter 10)
- Administrative fee reserves: Including approval by the Board of Commissioners or other authorized officials to charge the administrative fee reserve; (Chapter 1)
- Guidelines and standards for HQS inspections: Including any adopted life-threatening deficiency that is not a HUD-required life-threatening deficiency; for PHA's that adopt the initial inspection non-life-threatening deficiency option: the PHA's policy on how the provision will be applied and whether the PHA will use withheld HAP funds to repay owners for units not initially in compliance; for PHAs that adopt the alternative inspection provision: the PHA's policy on how it will be applied to both initial and periodic inspections, the specific alternative method used by the PHA, the specific properties or types or properties where the alternative inspection method will be employed, and for initial inspections, the maximum amount of time the PHA will withhold HAP if the owner does not correct the HQS deficiencies within the cure period, and the period of time after which the PHA will terminate the HAP contract for the owner's failure to correct the deficiencies, which may not exceed 180 days from the effective date of the HAP contract; and the PHA's policy on charging a reinspection fee to owners. (Chapter 7)
- The PHA's policy on withholding HAP for units that do not meet HQS; (Chapter 7)
- The PHA's policy on assisting families with relocating and finding a new unit; (Chapter 8 & 10)

- Whether the PHA will permit a family to submit more than one Request for Tenancy Approval at a time; (Chapter 6)
- Policies on insufficient funding: Including a description of the factors the PHA will consider when determining which HAP contracts to terminate first after taking into account any cost-saving measures taken by the PHA. *(Chapter 10)*

## **1 – F. RULES AND REGULATIONS [24 CFR 982.52]**

This Plan is set forth to define the Housing Division's local policies for operation of the HCV program administered by the City of Wichita Falls. All issues related to the HVC program not addressed in this document are governed by such Federal regulations, HUD memos, notices and guidelines, HCV Guidebook, or other applicable law. The policies in this Plan have been designed to ensure compliance with the consolidated Annual Contributions Contract (ACC) and all HUD-approved applications for program funding.

A detailed list of the PHA responsibilities is contained in 24 CFR 982.153. See Chapter 14 for information and special items required for Project Based Voucher Assistance.

Most acronyms or terms used in this Plan and on HUD forms are defined in 24 CFR Part 5. Any additional terms are found in 24 CFR 982.4.

## **1 – G. AREA OF JURISDICTION**

The City of Wichita Falls Housing Choice Voucher Program defines its primary operational boundaries as those areas inside Wichita County from the Red River south to the Archer County line and from the Wilbarger/Wichita County line westward, extending eastward to the Wichita/Clay County line to include Electra, Iowa Park, Burk Burnett, Wichita Falls, Pleasant Valley, Kamay, and Valley View. During the initial first year, the participants must reside in this area. After the initial year, families may be eligible to move under portability to another PHA's jurisdiction. See Chapter 10 for more information on Moves and Portability.

### **Servicing Units for Another PHA within Wichita County**

#### **PHA Policy**

If HUD should make Housing Choice Voucher rental assistance from other PHA's in the surrounding areas available, this PHA will consider agreeing to administer these units. The PHA would do this only if this agency can be formed into a metro area type PHA and all units and funding are combined into a single funding authority and with a single waiting list.

## **1 – H. RESERVE ACCOUNTS**

### **1. Administrative Fee Reserve [24 CFR 982.152 and 982.155]**

The Public Housing Agency (PHA) has two different reserves. The only one that the PHA has control of is the Administrative Fee Reserve. This reserve is comprised of those actual administrative fees earned by the PHA in prior years that exceeded the authorized operating costs of the program during any budget year.

The City of Wichita Falls PHA, after reviewing funding requirements for the successful operation of this agency with the Finance Department, has concluded that adequate operating funds will be available through the remaining term of the Annual Contributions Contract. To assure such level of funding will continue to be available in the future, the City of Wichita Falls has established a minimum threshold of \$125,000 that must be retained by the City of Wichita Falls in the Unrestricted Administrative Fees Reserve account. The Administrative Fees Reserve must be maintained as a resource to pay Housing Choice Voucher program administrative costs that may exceed the actual amounts of administrative fees earned during a PHA's fiscal year. Any amount to be used that will result in lowering the reserve below the established threshold will require approval by the City Council of the City of Wichita Falls, Texas. No Administrative Fees Reserve funds will be used for purposes other than housing related activities, and then only if the reserves will not be needed to meet the operational needs of the division.

### **2. Annual Contributions Contract Reserve [24 CFR 982.154]**

This unfunded program reserve account is the amount of unexpended budget authority that is retained by HUD. Any fiscal year that the PHA does not spend the total budget authority under the Consolidated Annual Contributions Contract (ACC), the balance is retained by HUD and may be used to pay for future program operations. HUD normally recaptures any amount that exceeds one month's operating funds.

### **3. Financial Responsibility [24 CFR 982.153]**

The Housing Agency operates as a division of the City of Wichita Falls. It is not an independent agency and has a portion of its financial support services provided by the City's Finance Department. The Chief Financial Officer must approve financial transactions involving expenditures of any funds from the Consolidated Annual Contributions Contract (CACC) other than Housing Assistance Payments, such as salaries and fringe benefits. Purchases outside of the office supplies must be approved according to City Policy. Capital improvements over \$1,000 also require the City Manager's approval. The City Manager has been empowered by the City Council to approve expenditures of under \$50,000 for budgeted eligible activities. Any expenditure over \$50,000 must be approved in an open public meeting by the Wichita Falls City Council. The City Council operates as this PHA's Board of Directors.

## **1 – I. SPECIAL PROGRAMS:**

### **1. Project Based Voucher Program (PBV):**

In addition to the Housing Choice Voucher Program, the Housing Division currently administers 6 (six) Project Based Units at Summit West Apartments located at 4558 Barnett Rd. Wichita Falls, TX 76310. The Housing Division may choose to implement other project based programs. The Housing Division may set aside up to 20% of HCV funding to provide affordable housing opportunities under the project based feature of the HCV program. See Chapter 14 for policies regarding the administration the City of Wichita Falls Project Based Voucher program.

### **2. Foster Youth To Independence Initiative (FYI):**

The Housing Department has agreed to administer a small number of Foster Youth Independence Initiative vouchers. See Chapter 15 for information and policies regarding the administration of the City of Wichita Falls Foster Youth to Independence Initiative program.

### **3. Home Tenant Based Rental Assistance (TBRA):**

The Housing Division may choose to implement a TBRA program in the future. The city at this time does not have any TBRA units under the HOME program.

## **1 – J. ADMINISTRATIVE PLAN REVISION**

The program Administrative Plan must be approved and adopted by the City Council and also sent to HUD as a part of the PHA's Plan. The plan will be revised on an as-required basis. This plan will be revised as the PHA receives additional units or when HUD publishes programmatic changes.

## **1 – K. – HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT OF 2016 (HOTMA) [PIH 2023-10]**

On February 14, 2023, the Department of Housing and Urban Development (HUD) published a Final Rule in the Federal Register implementing Sections 102 and 104 of the Housing Opportunity through Modernization Act of 2016 (HOTMA). At this time, the provisions under Sections 102 and 104 are expected to go into effect for the Wichita Falls HCV Program, as required, effective July 1, 2025, unless otherwise extended by HUD.

HOTMA will amend information throughout this Administrative Plan and will directly affect Chapters 3, 5, 6, 9 and 11. The amended Chapters, based on the applicable HOTMA guidance that is available as of the date of this Plan, can be found in the Appendix at the end of this document. Upon the implementation of HOTMA, the information in the Appendix will automatically replace their respective chapters in the main body of this Administrative Plan.

All information in the appendix is subject to change based on Federal Regulation and HUD guidance. The Housing Division will update this Plan and its policies as needed to reflect any subsequent guidance released by HUD pertaining to HOTMA, the Final Rule, and other related regulatory requirements.

## CHAPTER 2 – FAIR HOUSING & EQUAL OPPORTUNITY

### PART I. NONDISCRIMINATION

#### 2 – I.A. NONDISCRIMINATION AND AFFIRMATIVELY FURTHERING FAIR HOUSING

It is the policy of the City of Wichita Falls to comply fully with all federal, state, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- HUD Equal Access Rule published

When more than one civil rights law applies to a situation, the laws will be read and applied together.

The Housing Division shall not deny any family or individual the equal opportunity to apply for or receive assistance under the HCV or PBV Programs on the basis of race, color, sex, religion, familial status, age, disability, national origin, sexual orientation, or gender identity. [24 CFR 982.202, PIH Notice 2014-20 (HA)]

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

All Housing Division staff will be informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the Housing Division offices and the equal opportunity logo will be used on all outreach materials. Staff will attend local or online fair housing update training sponsored by HUD, when available, to keep current with new developments.

Except as otherwise provided in 24 CFR 8.21 (c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the Housing Division's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the Housing Division's office in such a manner as to be easily readable from a wheelchair.

The City of Wichita Falls' offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided through a TDD phone number that is the same as Housing Division's phone number.

## **2 – I.B. ASSISTING FAMILIES CLAIMING ILLEGAL DISCRIMINATION [24 CFR 982.304]**

To further its commitment to full compliance with applicable Civil Rights laws, the Housing Division will provide Federal/State/local information to the families and owners regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the families briefing packet and available upon request at the front desk. The Housing Division will inform the family of the opportunity to rent in a broad range of neighborhoods. The Housing Assistance Payment (HAP) contract informs the owners of the requirement not to discriminate against any person because of race, color, sex, religion, familial status, age, disability, national origin, sexual orientation, or gender identity (perceived or actual) in connection with the contract.

Applicants or participants who believe they have been subject to unlawful discrimination may notify the Housing Division either orally or in writing. The Housing Division will refer the case to the HUD regional field office and provide the family with information on how to complete and submit the housing discrimination complaint to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The Housing Division will attempt to remedy discrimination complaints made against the Housing Division and make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any corrective action.

All tenants are given a copy of the Housing Discrimination form during their briefing. If needed, the PHA will make computer access to the HUD website available, where the family can fill out a Housing Discrimination form online. Persons who believe they have been discriminated against may also use the toll free 800 telephone number to report their complaint directly to HUD.

## PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

### 2 – II.A. REASONABLE ACCOMMODATIONS

#### 1. Overview [24 CFR 100.204, 24 CFR 8.33, 28 CFR Parts 35 & 36, PIH Notice 2016-09]

A person with a disability may require special accommodations in order to have equal access to the HCV program.

A reasonable accommodation is an adjustment or exceptions made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program.

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the Housing Division treat the information as a request for a reasonable accommodation, even if no formal request is made. The Housing Division will encourage the family to make its request in writing using a reasonable accommodation request form. However, the Housing Division will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

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

#### 2. Types of Reasonable Accommodations

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

- Permitting applications and reexaminations to be completed by mail.
- Conducting home visits.
- Using higher payment standards if the Housing Division determines this is necessary to enable a person with disabilities to obtain a suitable housing unit.
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit.
- Providing families with information about accessible units on the market.
- Permitting an authorized designee or advocate to participate in the application or

certification process and any other meetings with Housing Division staff.

- Displaying posters and other housing information in locations throughout the Housing Division's office in such a manner as to be easily readable from a wheelchair.

### **3. Requesting a Reasonable Accommodation**

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

If the need for the accommodation is not readily apparent or known to the Housing Division staff member, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability. Before making a determination on whether to approve the request, the Housing Division may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the Housing Division may verify the need for the requested accommodation.

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

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

### **4. Approval / Denials of a Requested Accommodation**

The Housing Division must assess each request on a case-by-case basis. Before making a determination on whether to approve the request, the Housing Division may enter into a discussion and negotiation with the family, request more information, or require the family to sign a consent form so that the Housing Division may verify the need for the requested accommodation. The Housing Division will provide a written decision to the person requesting the accommodation within 30 days. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal review or hearing of the Housing Division's decision. (See Chapter 12 for information on Informal Reviews and Informal Hearings)

## **2 – II.B. PHYSICAL ACCESSIBILITY**

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

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

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

- This Plan describes the key policies that govern the Housing Division's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
- The Housing Division's Five Year Plan and Annual Plan provide information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of Housing Division facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the Housing Division will include a current list of available accessible units known to the Housing Division and will assist the family in locating an available accessible unit, if necessary.

Owners must permit the family to make reasonable modifications to the unit. The owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

## **2 – II.C. REFERRALS TO OUTSIDE AGENCIES**

The Housing Division staff will be kept informed with a wide cross section of agencies that help lower income families. The staff will be able to assist families with referrals to agencies that provide a wide range of services. This assistance is not limited to housing matters.

## **2 – II.D. ASSISTANCE TO TENANTS AND LANDLORD/AGENTS FROM THE STAFF**

The PHA also maintains a list of homes, apartments and mobile homes, that owners have indicated may be available to program participants seeking units or wishing to relocate. This list includes information regarding properties that may have ADA units available (See Chapter 8 – II.B. for more information regarding the “Unit List”).

The City of Wichita Falls will continue to make every effort to assist applicants and participants in locating suitable housing in any area of the city they desire. The staff may provide direct assistance to mobility-restricted families in the housing search.

Families are encouraged to look at all types of rental units, in every area of town, during their housing search.

## **2 – II.E. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS**

HUD regulations require the Housing Division to ensure that persons with disabilities related to hearing and vision have reasonable access to the HCV programs and services [24 CFR 8.6]. At the initial point of contact with each applicant, the Housing Division shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

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

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

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

## **PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITS ENGLISH PROFICIENCY (LEP)**

**[24 CFR 8.6 and 28 CFR PART 35]**

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

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

The Housing Division has determined that it is reasonable to train and hire Spanish/English bilingual staff to be available to act as interpreters and translators and to pool resources with other City departments/staff to act as interpreters when needed.

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

## **CHAPTER 3 – ELIGIBILITY**

**[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]**

### **CHAPTER OVERVIEW**

The City of Wichita Falls Housing Division is responsible for ensuring that every family admitted to the Housing Choice Voucher (HCV) program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide all information needed by the Housing Division to confirm eligibility and determine the level of the family's assistance.

The Housing Division accepts applications only from families whose head or spouse is at least 18 years of age or is an emancipated minor under State law.

To be eligible for participation, an applicant must meet the Department of Housing & Urban Development's (HUD) criteria, as well as any permissible additional criteria established by the Housing Division. The HUD eligibility criteria are listed below and described in detail throughout this Chapter.

The HUD eligibility criteria are:

- I. Qualify as a family as defined by HUD and the Housing Division;
- II. Be income eligible;
- III. Furnish Social Security Numbers for all family and household members;
- IV. Qualify on the basis of citizenship or the eligible immigrant status;
- V. Provide information required by HUD and the PHA when requested, cooperate in efforts to verify the information provided and consent to the Housing Division's collection and use of family information as provided for in Housing Division-provided consent forms;
- VI. The Housing Division must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the Housing Division.

The family's initial eligibility and evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for the final eligibility processing for issuance of a Voucher.

## PART I: FAMILY DEFINITIONS

### 3 – I.A. FAMILY ELIGIBILITY REQUIREMENT

To be eligible for assistance, the applicant must qualify as a family. A family may be a single person or a group of persons. The terms family and household have different meanings in the HCV program. [24 CFR 982.201]

### 3 – I.B. FAMILY AND HOUSEHOLD [24 CFR 5.403, 5.504]

A 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:
  - i. A family with or without children (a child who is temporarily away from the home because of placement in a foster care is considered a member of the family);
  - ii. An elderly family;
  - iii. A near elderly family;
  - iv. A displaced family; and
  - v. The remaining member of a tenant family.
3. A single person who:
  - i. Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
  - ii. Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
  - iii. Is homeless or is at risk of becoming homeless at age 16 or older.

#### PHA Policy

HUD regulations (CFR 982.201) require that the Housing Division determine if any other group qualifies as a family. The City of Wichita Falls also defines a family as:

- Two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously in a stable relationship or certify that each individual's income and other resources will be available to meet the needs of the family.

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

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

The **Head of Household** is the adult member of the household who is designated by the family as the head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/Local law. Emancipated minors who qualify under State law will be recognized as head of household.

**Spouse** means the husband or wife of the head of household.

For proper application of the Non-Citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

**Co-Head** means an individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

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

A **Full-Time Student (FTS)** [24 CFR 5.603; HCV GB] is a person who is attending school or vocational training on a full-time basis. The educational institution defines the time commitment or subject load that is needed to be full-time. Identifying each FTS is important because: (1) each family member that is a FTS, other than the head, spouse, or co-head, qualifies the family for a dependent allowance, and (2) the earned income of such a FTS is treated differently from the income of other family members.

A **Minor** is defined as a member of the family, other than the head of household or spouse, who is under 18 years of age.

### 3 – I.C. ELDERLY AND DISABLED FAMILIES [24 CFR 5.100, 5.403, FR Notice 02/03/12]

A "family" may be a single person or a group of persons. The definitions related to "elderly" and "disabled" families are as follows:

**Elderly Person** means a person who is at least 62 years of age.

**Elderly family** means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least

62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Near-elderly family** means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

A **Person with Disabilities** means a person who has a disability and is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration, which substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions, or has a developmental disability as defined in 42 USC 6001. A person with disabilities includes an individual with handicaps as defined in 24 CFR 8.3.

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

### **Live-in Aide**

A Family may include a live-in aide provided that such live-in aide:

- Is determined by the Housing Division to be essential to the care and well-being of an elderly person, a near-elderly person, or a person with disabilities,
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

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

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Non-Citizen Rule requirements.
- Live-in aides may not be considered as a remaining member of the tenant family.
- Live-in aids must be considered for bedroom size requirements for a unit under HQS space standards.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

A live-in aide may only reside in the unit with the approval of the Housing Division. Written verification will be required from a reliable, knowledgeable professional, such as a doctor,

social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly or disabled.

The Housing Division will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 2 of this Plan.

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

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the Housing Division or to another Housing Division in connection with HCV or public housing assistance under the 1937 Act.

### **3 – I.D. FOSTER CHILDREN AND ADULTS [24 CFR 5.603]**

**Foster Child** is defined a child (under the age of 18) who is in the managing conservatorship of the Department of Family and Protective Services. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

**Foster Adult** is defined as a member of the household who is 18 years of older, who is unable to live independently due to a debilitating physical or mental condition and is therefore placed with a family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Foster adults/children are not considered family members and must not be included in calculations of income for eligibility and rent determination purposes. Foster adults/children are, however, considered household members and must be included when determining unit size or subsidy standards based on established policies.

Foster children and foster adults must be approved by the Housing Division to live in the household prior to an applicant's admission to the program. Foster children and foster adults must also be approved by the Housing Division prior to being added to an active participant's household.

#### **PHA Policy**

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

### **3 – I.E. DEPENDENT [24 CFR 5.603]**

A dependent is defined as a member of the family (excluding foster children) other than the family head or spouse who is under 18 years of age, or is a person with a disability, or is a full-time student.

### **3 – I.F. SPECIAL CIRCUMSTANCES**

#### **1. Family Break-Up (Family Dissolution) [24 CFR 982.315]**

##### **a. Family Dissolution Prior to Voucher Issuance:**

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and a court has determined the disposition of property between family members of the assisted family, the Housing Division is bound by the court's determination of which family members continue to receive assistance. In circumstances where there is no court determination, the PHA has discretion on which members of an assisted family may continue to receive assistance after a family breaks up.

##### **PHA Policy**

The Housing Division will make the decision of who will remain on the waiting list taking into consideration the following factors:

- Which family member applied as head of household
- Which family unit retains the children or any disabled or elderly members
- The role of any domestic violence in the split
- Recommendations of social service agencies or qualified professionals such as children's protective services

Only one of the new families may retain the original application date. Other former family members may make a new application with a new application date, if the waiting list is open.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the Housing Division. If the family breakup results from an occurrence of domestic violence, dating violence, or stalking, the Housing Division must ensure that the victim retains assistance, as long as the family meets the documentation requirements.

**b. Family Dissolution While Active On the Program:**

HUD regulations at 24 CFR 982.315 require that the PHA determine which family member will be the remaining family member who will continue to receive the rental assistance in the case of family breakup except in cases where the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L. For families that break up as a result of domestic violence, the PHA must ensure that the victim retains assistance.

**PHA Policy**

In cases of mutual separation, the assistance will stay with the family member that retains custody of the children. If two family members (no children) split under mutual agreement, the person remaining in the unit will continue to receive the assistance. If a court has determined that one member of the family will receive the housing, the court ruling will bind the PHA.

**2. Multiple Families in the Same Household**

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

**3. Joint Custody of Children**

**PHA Policy**

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

When both parents are on the waiting list and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

## **PART II. INCOME AND ELIGIBILITY TARGETING**

### **3 – II.A. INCOME LIMITS [24 CFR 5.603, HCV Guidebook]**

**Income Limits:** HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. Income Limits are based on the median family income with adjustments for family size. HUD requires that families must have income at or below HUD-

specified income limits. Income Limits are used for eligibility only at admission (See Chapter 5 for information on how income is verified and calculated).

**Very low-income family** means a family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size. All new participants must be meet the definition of very low income.

**Extremely low-income family** means a very low-income family whose annual income does not exceed the higher of:

1. The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or
2. Thirty (30) percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

### **3 – II.B. INCOME TARGETING REQUIREMENT [24 CFR 982.201]**

Seventy-five (75) percent of all new families admitted to the program during any fiscal year shall be from the extremely low-income group (30% of less of the AMI) to comply with 24 CFR 5.201 (b)2(i). If an applicant has an income change (either increase or decrease) between the issuance of a voucher and lease-up, the income at lease up is the income that is used toward the income targeting requirements.

Lower income families (80% of median) that have been **continuously assisted** since July 1984 can still continue to be assisted. Special Admissions, Prepays and Opt-Outs, and other families for which HUD has provided targeted vouchers are not calculated in the 75% targeting requirements.

### **3 – II.C. CONTINUOUSLY ASSISTED [24 CFR 982.4]**

24 CFR 982.4 defines “continually assisted” as an applicant that was already receiving assistance under any 1937 Housing Act Program when the family was admitted.

#### **PHA Policy**

Continuously assisted families include those who have been displaced from public housing or families issued vouchers because of project-based program REAC failures or owner opt outs, etc.

**3 – II.D. RESTRICTIONS ON STUDENT ELIGIBILITY** [24 CFR 5.612 and FR Notice 4/10/06, FR Notice 9/21/16]

**1. Students of Higher Learning Eligibility**

Students at institutions of higher education who are applying for housing and who will not reside with their parents must meet additional eligibility criteria. These rules apply regardless of whether the student is considered a full-time or part-time student.

Assistance shall only be provided to students who are otherwise eligible for the program and meet at least one of the following criteria. The student:

- Is 24 years of age or older;
- Is a veteran of the United States Military service;
- Is married;
- Has a dependent child;
- Is a person with disabilities who was receiving HCV assistance as of November 30, 2005; or
- Is a graduate or professional student; or
- Is individually income eligible and the student's parents are individually or jointly income eligible;
- Or is an independent student, defined as:
  - a) The individual is 24 years of age or older by December 31 of the award year;
  - b) The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care or a ward of the court at any time when the individual was 13 years of age or older;
  - c) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.
- Or, is classified as a Vulnerable Youth. A student meets HUD's definition of Vulnerable Youth when the individual has been verified during the school year in which the application is submitted as either an "unaccompanied youth" who also falls within the definition of "homeless children and youths" (as such terms are defined in Section 725 of the McKinney-Vento Homeless Assistance Act), or as unaccompanied youth (as defined in Section 725 of the McKinney-Vento Homeless Assistance Act), who are at risk of homelessness and self-supporting, by:

- a) A local educational agency homeless liaison, designated pursuant to the McKinney-Vento Homeless Assistance Act;
- b) The director of a program funded under the Runaway and Homeless Youth Act or designee of the director;
- c) The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director or
- d) A financial aid administrator.

- Or, the individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

For purposes of the student eligibility restrictions, the term “parents” means the biological or adoptive parents, or guardians (e.g., stepparents, grandparents, aunt/uncle, godparents, etc.).

## **2. Student Income Eligibility**

If an individual is enrolled as a student at an institution of higher education and does not meet one of the above requirements, the student and his / her parents income collectively must be eligible for the HCV program.

## **3. Noncitizen Students [24 CFR 5.522, 42 USC 1436]**

Noncitizen students, even those with eligible immigration statuses for the purposes of HUD’s financial assistance are not eligible to receive housing assistance.

A **noncitizen student** is a bona fide student who:

- Is pursuing a course of study in this country;
- Has a residence in another country outside of the United States that the person has no intention of abandoning; and
- Is admitted to this country temporarily, solely for the purpose of studying.

When a noncitizen student is accompanied by a noncitizen spouse and / or noncitizen minor children, those family members are also ineligible for assistance. If the noncitizen student and noncitizen spouse have citizen children, the whole family is still ineligible for assistance. However, if a non-citizen student has a citizen spouse, the citizen spouse and children if any, would be eligible for assistance. In that case, assistance would be prorated to ensure that assistance goes only to those family members with eligible immigration status.

## **PART III. SOCIAL SECURITY NUMBERS [24 CFR PART 5 SUBPART B]**

### **3 – III.A SSN DISCLOSURE REQUIREMENTS**

Applicants and participants must disclose social security numbers (SSN) as well as the documentation necessary to verify each SSN for all household members.

Acceptable SSN Verification documentation may include:

- An original SSN card issued by the Social Security Administration (SSA),
- Original document issued by the SSA that shows the person's full name and full SSN (such as an SSA award letter, Medicare card, etc.), or
- An original document issued by a federal, state, or local government agency that contains the full name and full SSN of the individual (such as an unemployment insurance printout, welfare or Medicaid documents, etc.)

The PHA must only reject these documents if they are not original, they appear to be forged, or the original document has been altered, mutilated or illegible. The Housing Division must also validate SSNs through the Enterprise Income Verification system (EIV).

Social Security Numbers are required to be provided, by the family, for all family members, except for ineligible non-citizens. Applicants may not become participants until the documentation is provided, but they may retain their place on the waiting list during the period they are awaiting verification.

#### **1. Children Under Age 6 Added to Applicant Families [24 CFR 5.216, PIH Notice 2016-05(ha)]**

If the applicant family adds a child under age 6 to their household within six months of voucher issuance, the family may be admitted to the program before the SSN documentation is submitted. The family has 90 days from the date of admission, which is the HAP contract effective date, to provide the required documentation to the PHA. The PHA must allow one additional 90-day period if the applicant family experienced delays that were out of its control.

#### **2. SSN Disclosure Requirements for New Household Members to Active Participant Household. [24 CFR 5.216]**

In order to add new household members over age 6 or new household members 6 and under who already have an SSN to a participant household, the family must disclose and document the new member's SSN before adding the new member to the assisted household. If a member, six years of age or older, does not have an SSN, the member must obtain one (unless he or she is a non-contending family member). The family must disclose

and document the new member's SSN prior to adding the new member to the assisted household.

### **3. Children Under Age 6 Added to Participant Households [24 CFR 5.216]**

When adding a new household member who is under six years old and does not have a SSN (for example a newborn), the participant must disclose and document the SSN for the new member within 90 days of the child's addition to the household. The housing division may grant a 90-day extension if the failure to provide information was beyond the family's control (for example, the delay was due to delayed processing by the Social Security Administration (SSA), a natural disaster, or a death in the family). A PHA must add the child to the assisted household pending submission of the SSN and the family must receive all associated benefits and deductions. For submissions to the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) system, PHAs must assign an "alternate ID" to the child. PHAs must later replace the alternate ID with the child's assigned SSN.

## **PART IV. CITIZENSHIP / ELIGIBLE IMMIGRATION STATUS.**

**[64 FR 25726-25733 (May 12,1999): 24 CFR part 5 subpart E]**

### **3 – IV.A. OVERVIEW**

Housing assistance is available only to individuals who are citizens of the United States or are noncitizens who have eligible immigration status. At least one family member must be a citizen or noncitizen with eligible immigration status to qualify for any level of assistance.

### **3 – IV.B. MIXED FAMILY**

A **mixed family** is a family that includes both eligible individuals and ineligible individuals. Mixed Families may qualify for pro-rated assistance if at least one member is a U.S. citizen or has eligible immigration status.

### **3 – IV.C. VERIFICATION REQUIREMENTS**

Every applicant and participant in the voucher program must sign a certification for every household member either claiming status as:

- A U.S. citizen
- An eligible alien, or
- Stating the individual's choice not to claim eligible status and acknowledge ineligibility.

## **1. U.S. Citizens**

For household members claiming U.S. citizenship, only a declaration signed by the household member is required. For an adult, the adult must sign the declaration. For a child, the declaration must be signed by an adult (who will be residing in the unit) who is responsible for the child. All new adult and child additions to the household must have their status determined prior to admission to the household.

### **PHA Policy**

The Housing Division also requires the following additional documentation:

- A valid State Issued ID for all adult members,
- Original Birth Certificate or Original unexpired United States Passport, and
- Original Certificate of Naturalization (if applicable).

## **2. Non-Citizens [24 CFR 5.508]**

Non-citizens claiming eligible status must provide all of the following evidence:

- The signed declaration of eligible immigration status;
- One of the INS documents referred to in 24 CFR 5.510;
- A signed verification consent form describing transmission and use of the information obtained.

In addition to this supporting documentation, the Housing Division is required to verify eligible immigration status through the U.S. Citizenship and Immigration Service (CIS). The primary method of verification is through the CIS automated system. If the primary verification system does not confirm eligible immigration status or verifies immigration status that is ineligible for assistance, the PHA must attempt a secondary verification of a manual records check by the CIS. The PHA must submit a request for secondary verification to CIS within 10 days of receiving the results of the primary verification. To request a secondary verification, the PHA will forward photocopies of the original required documents with the form G-845S Document Verification Request (or its successor).

If the primary and secondary verification methods do not confirm eligible immigration status, the Housing Division must notify the family in writing and offer the family the right to an appeal with the CIS. If the Family wants to exercise its right of appeal with the CIS, the family must submit a written request for an appeal to the CIS within 30 days of the date of the PHA notification.

To appeal, the following steps must be taken by the family:

- Include with the appeal request: a cover letter and any support documentation, as well as a copy of the verification request form (CIS Form G-845S) which was submitted by the PHA for the secondary verification request;
- Provide the PHA with a copy of the request for appeal with the CIS and proof of mailing (e.g., USPS Certified Mail©, a service that provides the sender with a mailing receipt); and
- Provide any additional documentation that the CIS may request.

Within 30 days the CIS must render its decision to the family and forward a copy to the PHA (or provide notice of the reasons for any delay). See Chapter 12 Part III for more information on Non-Citizen Appeals.

### **3. Extensions [24 CFR 5.508]**

The PHA must provide an extension of up to 30 days to submit evidence of eligible status if the family submits the declaration of eligible immigration status and certifies that the family needs more time because the required evidence is temporarily unavailable. To obtain an extension, the family must also certify that prompt and diligent efforts will be undertaken to obtain the evidence.

Upon determining if the extension request meets the requirements, the PHA must inform the family, in writing, whether its request for a time extension has been granted or denied. If granted, the notice must state the specific period of the extension. If the extension request is denied, the notice must explain the reasons for the denial.

### **3 – IV.D. INELIGIBLE NON-CITIZENS [24 CFR 5.508, HCV GB]**

Household members who do not sign a declaration of their status or provide the required supporting proof of citizenship / immigration status will be considered ineligible noncitizens. Ineligible non-citizens do not qualify for housing assistance.

### **3 – IV.E. DELAY, DENIAL, OR TERMINATION OF ASSISTANCE [24 CFR 5.508, 5.514]**

The PHA must not delay, deny, or terminate assistance to an applicant or participant on the basis of ineligible immigration status of a family member if any of the following circumstances apply:

- At least one person in the household is a U.S. citizen or an eligible noncitizen who has been verified by CIS;
- The family has submitted the required documents to the PHA timely, but the primary and secondary verification processes has not been completed;

- The family member whom the PHA has not determined eligible moves out of the household;
- The CIS appeals process has not been completed;
- Assistance is prorated, and the family is not receiving assistance for the family member(s) whose eligible immigration status has not been verified; or
- For a program participant, the informal hearing process is not complete.

**Assistance must be denied or terminated when:**

- The family has not submitted the declaration of citizenship or eligible immigration status and appropriate documentation by the specified deadline or any extension;
- The family has submitted required documentation, but CIS primary and secondary verification do not verify immigration status and the family does not pursue CIS or PHA appeal;
- The family has submitted required documentation, but CIS primary and secondary verification do not verify immigration status, and CIS or PHA appeal is pursued but decision(s) are rendered against the family; or
- The PHA determines that a family has knowingly permitted an ineligible person to live in the assisted unit. In this case, the PHA must terminate assistance for at least 24 months. This does not apply if the ineligibility of the ineligible individual was considered in calculating any proration of assistance provided for the family.

**3 – IV.F. NOTIFICATION OF DENIAL DUE TO CITIZENSHIP STATUS [24 CFR 5.512, 5.514]**

When the PHA decides to deny or terminate assistance, the PHA must send a written notice to the household, which includes the following:

- A statement that financial assistance will be denied or terminated and the justification;
- Notification that the family may be eligible for prorated assistance if it is a mixed family;
- In the case of a currently assisted household, the procedures for requesting proration of assistance;
- The right to appeal the results of the secondary verification to the CIS and how to appeal; and

- The right to request an informal hearing from the PHA in lieu of or after a CIS appeal.

In the case of applicants, the notice may advise that assistance may not be delayed during the informal hearing process.

## **PART V- VERIFICATION REQUESTS AND CONSENT TO RELEASE INFORMATION**

**[24 CFR 982.551, 5.216, 982.201, 5.230]**

### **3 – V.A. GENERAL VERIFICATION REQUIREMENTS**

Participant families must provide information required by HUD and the PHA when requested, and cooperate in efforts to verify the information provided.

### **3 – V.B. CONSENT TO RELEASE INFORMATION**

The Housing Division must require all applicants and participants (regardless of age who are or will subsequently become a family member as the head of household, co-head of household, and/or spouse), to sign the HUD-9886 Authorization for the Release of Information/Privacy Act Notice (form HUD-9886) as a condition for admission and continued assistance.

Upon the implementation of HOTMA, HUD regulations require that all applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income reexamination.

After an applicant or participant has signed and submitted a consent form either on or after January 1, 2025, they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the PHA in administrative instructions.

#### **PHA Policy**

When any person 18 years or older becomes a member of the family or an existing member of the family turns 18 years of age, the family is responsible for ensuring that the adult member signs the required form HUD-9886 and submits said form to the Housing Division within 30 days of the date of the change.

These consent forms contain provisions authorizing HUD and the PHA to obtain necessary information for verification of an application or to maintain a family's assistance, including

income information and tax return information. The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent. If a family voluntarily leaves a HUD program, the family's assistance is considered to be terminated and the signed consent forms will no longer be in effect.

HUD will publish a new form HUD-9886-A and is updating forms HUD-9887 and HUD-9887-A (Fact Sheet) to conform with the final rule. HUD will include language in the forms allowing PHAs to obtain financial records from financial institutions whenever the PHA determines that such a record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

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

## **PART VI: TENANT SCREENING AND DENIAL OF ASSISTANCE**

### **3 – VI.A. TENANT SCREENING [24 CFR 5.856, 5.905, PIH Notice 2012-28]**

The Housing Division is required to conduct criminal background screenings on all adult household members. Prior to lease up, all tenants are required to be screened for a listing under the Sex Offenders Act and a criminal records check with local law enforcement agencies will be conducted. All household members must provide a list of all states in which they have lived within the last 10 years and whether their name appears on any lifetime sex offender registry. A separate consent form for the police records check must be signed by all tenants over 18 years of age or at re-certification time for those that have reached 18 years of age during that period. Families are encouraged to avoid delays by gathering the verification required ahead of the actual certification date. The staff will provide reasonable accommodation to aid persons with handicaps or disabilities that need assistance in the completion of the authorization forms.

The Housing Division must also utilize EIVs Debts Owed to PHAs & Terminations Report to identify tenant debts to PHA's nationwide and to review previous reasons for terminations to determine if the termination reason falls under HUD or the Housing Divisions required reasons for denial of assistance.

### **3 – VI.B. DENIAL OF ASSISTANCE**

Federal regulations dictate mandatory reasons for denial of assistance. Should a family not meet the eligibility criteria as laid out in Parts I – V of this chapter, the family must be denied assistance. HUD also lays out mandatory Tenant Screening and Denial of Assistance regulations and gives the Housing Division latitude for selecting additional criteria.

#### **1. Forms of Denial [24 CFR 982.552; HCV GB]**

Denial of assistance may include any of the following:

- Denial of listing on the Housing Division's waiting list,
- Denial or withdrawal of a voucher,
- Refusal to enter into a HAP contract or approve a lease, and
- Refusal to process or provide assistance through portability.

#### **2. Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]**

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

- Age, disability, race, color, religion, sex, national origin, sexual orientation, or gender identity;
- Where a family lives prior to admission to the program;
- Where the family will live with assistance under the program (although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the Housing Division's jurisdiction under portability);
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
- Whether the family includes children;
- Whether a family decides to participate in a family self-sufficiency program;
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant is otherwise qualified for assistance.

### **3. HUD Mandated Reasons for Denial of Assistance**

The Housing Division is required by HUD to deny admission for the following specific types of criminal activity or alcohol abuse. Denial is required when:

- 1) A household member has been evicted from federally assisted housing within the last three years for drug-related criminal activity.
  - The PHA may admit the family if it determines that the household member who engaged in the activity has been successfully rehabilitated, or the circumstances no longer exist (because, for example, the household member is dead or in prison)
- 2) The PHA determines that a household member is currently illegally using a controlled substance or such household member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, is determined by the PHA to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The PHA may consider whether such household member has taken steps to rehabilitate or has been rehabilitated and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.
- 3) Any household member has been convicted of the manufacture of methamphetamine on the premises of federally assisted housing.
- 4) Any household member is subject to a lifetime sex offender registration requirement.

If the Housing Division denies admission based on a criminal conviction record, the PHA will notify the family of the pending denial action and give the family 10 business days to dispute the accuracy and/or relevance of the record. A copy of the criminal conviction record must be provided to the head of household and to the subject of the record (if different) at this time. If the family does not dispute the record, or if the family disputes the record and the PHA does not agree, the regular denial notice is sent.

### **4. Removal of a Family Member's Name from the Application**

Should the Housing Division's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration; the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the Housing Division may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)].

### **PHA Policy**

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

After admission to the program, the family must present evidence of the former family member's current address upon the Housing Division's request.

### **3 – VI.C. NOTICE OF DENIAL OF ASSISTANCE**

If the Housing Division determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 12 for information on Informal Reviews.

If the Housing Division obtains criminal record or sex offender registration information under 24 CFR Part 5, Subpart J which renders the family ineligible for housing assistance, the PHA must notify the household and must provide the subject of the record and the applicant or tenant a copy of such information. The Housing Division must also provide the family an opportunity to dispute the accuracy and relevance of the information. This opportunity must be provided before the notice of denial of assistance [24 CFR 5.903(f) and 5.905(d)].

### **PHA Policy**

Should an applicant family appear to be ineligible due to a criminal record or sex offender registration information, the Housing Division will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 calendar days from the date of the notice to dispute the accuracy and relevance of the information. If the family does not contact the Housing Division within the 10-day period, the Housing Division will proceed with issuing the notice of denial of admission.

### **3 – VI.D. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING**

The Violence against Women Act of 2005 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit the Housing Division from denying an applicant admission to the HCV program on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking, if the applicant otherwise qualifies for assistance or admission.

#### **1. Notification**

The Housing Division acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a

record of previous damage to an apartment, a prior arrest record) that would warrant denial under the Housing Division's policies. Therefore, if the Housing Division makes a determination to deny assistance to an applicant family, the Housing Division will include in its notice of denial VAWA information and will request that an applicant wishing to claim protection under VAWA notify the Housing Division within 10 business days.

**2. Victim Documentation [24 CFR 5.2007]**

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, or stalking, the Housing Division will request in writing that the applicant provide documentation supporting the claim. See Chapter 13 Part VIII for more information on VAWA.

**3 – VI.E. APPLICANT'S GRIEVANCE PROCEDURES [Source: 24 CFR 982.554]**

Anyone found to be ineligible when their name comes to the top of the list will be notified, in writing, at the address they furnished on the application. The notification shall include information for requesting an informal review. The request for an informal review may be submitted to the Housing Department by completing the Grievance Packet. The Grievance Packet must be submitted in writing to the Housing Division within 10 business days of the date of the Ineligibility letter.

Applicants shall have the right to an informal review for most decisions made by the PHA during the application and eligibility determination process. During the informal review, the applicant will be given the opportunity to present written or oral objections to the Housing Division's decision. The Housing Division will notify the applicant of its final decision after the informal review, including a brief written statement of the reasons for the final decision. (See Chapter 12 Part I for more information on Informal Reviews.)

## CHAPTER 4 – WAITING LIST AND APPLICANT SELECTION

### PART I: WAITING LIST

[24 CFR PART 982.54 (1) and 24 CFR PART 982 SUBPART E]

#### 4 – I.A. OVERVIEW

Except for special admissions directed by HUD, all participants must be selected from a single waiting list. The waiting list is covered in detail in 24 CFR 982.204. The PHA will accept applications for the Housing Choice Voucher Tenant Based program from any interested persons as long as there are funds available and a reasonable chance of assisting the applicant within two years. Everyone will be given the opportunity to complete an application unless the waiting list has been officially suspended (closed) by the PHA through a published public notice of that suspension in the local paper of general circulation.

#### 4 – I.B. WAITING LIST FORMAT

This waiting list will provide sufficient information to determine should any elderly/disabled, homeless, or any other preference be mandated by HUD in the future to determine selection order for assistance as vouchers become available. The list will contain enough information to meet Fair Housing and Equal Opportunity requirements. Income data at time of application must comply with the 75% extremely low-income requirements.

#### 4 – I.C. THE ESTABLISHMENT OF THE WAITING LIST. [24 CFR 982.206]

As there are always more persons applying for the program than there are funds available to provide assistance, a waiting list has been established and is used for applicant selection. The Housing Division will provide program eligibility information and encourage a number of interested organizations and parties serving low income families to provide information to their clients.

#### 4 – I.D. CLOSING AND REOPENING THE WAITING LIST [24 CFR 982.206]

##### 1. Closing the Waiting List

If it will take more than 24 months for a family to be assisted, the PHA will publish a public notice announcing the closing of the waiting list and stating how long the PHA expects it to be closed.

## **2. Reopening the list**

If new vouchers become available or those persons currently on the waiting list are being assisted within 6 months, a notice will be placed in the local newspaper, local minority media, and the City's Website. This notice will state that the waiting list is open, that assistance is available within a reasonable time, and how persons may apply to be placed on the waiting list.

# **4 – I.E. OUTREACH TO INCOME ELIGIBLE FAMILIES [HCV GUIDEBOOK]**

## **1. Public Service Announcements/News Releases**

### **a. Outreach by Media**

The PHA will brief the news media, as needed, on any changes in the Housing Choice Voucher program. All local media have been very cooperative in providing free information on the programs either as news items or as public service announcements to the general public. Paid news releases and public service ads will be in accordance with HUD advertising guidelines and mention the Equal Opportunity Housing statement or display the logo.

### **b. Outreach by Groups**

The PHA will distribute available information and materials to interested parties through its office and the following: Public Housing Authority offices, neighborhood groups, Sheppard Air Force Base Off-Base Housing Referral Office, NAACP, United Way and area civic clubs. These methods will afford the widest possible base for publicizing the program.

### **c. Outreach to Individuals**

Each year the PHA places information on Fair Housing on the back of the water bills for the City. If needed, a notice can be placed on the bills encouraging persons to apply for HCV rental assistance.

## **2. Paid Advertisement**

If the on-going free methods of advertising for the programs do not provide a pool of eligible applicants in the correct demographic proportions, a paid advertising program will be utilized as needed. If a waiting list does not exist when any additional increment of units is authorized, all forms of media including paid advertising will be used to inform interested groups and individuals.

To the extent administrative funds are available, the PHA will publish advertisements in the (Wichita Falls) Times Record News, The Express (a free supplement mailed to area

homes), The Thrifty Nickel (a free weekly paper available at stores, food outlets, etc.), and the North Texas Journal, a minority newspaper. If paid advertising is used, these ads will include the "Equal Housing Opportunity" logo. In the case of free advertising or in news items an effort will be made to include the logo or statement.

### **3. Special Outreach to Groups Least Likely to Apply**

Based on previous experience, persons of all races that are elderly, disabled, handicapped or those working persons with very low incomes are not expected to apply for housing assistance without special outreach. To stimulate applications from the above groups, information on the Housing Choice Voucher program will be disseminated to organizations specializing in rehabilitation (i.e., Beacon Lighthouse of the Blind, Texas Rehabilitation Center, North Texas Rehabilitation, Individual Development Center, Work Services, Inc., MHMR, ARC, senior citizen groups, Region IX Education Center, church groups, and other area service organizations that can assist in informing these selected groups).

The Housing Division will contact and provide information in the best forms possible, written or verbal, to groups representing the elderly, disabled, handicapped, or otherwise disadvantaged. These meetings will be designed to stimulate applications and participation from these groups, which in the past, have not applied in the proportions expected.

### **4. Other Sources of Information.**

Information is provided to the Wichita Falls Chamber of Commerce and Industry, Texas Work Force Commission, Social Security Administration, and Department of Human Services on the Housing Choice Voucher programs. These offices often serve as referral services to other agencies that can provide housing information. It has been determined that because of the wide-spread information services described in the above paragraphs that no additional action will be required to provide outreach to the expected-to-reside category.

## **4 – I.F. THE APPLICATION PROCESS [24 CFR 982.204] [24 CFR982 5.233]**

### **1. Applying for Assistance**

A family wishing to receive Housing Choice Voucher (HCV) assistance must complete an application which will be used to enter the data into the PHA's database system. HUD has created a national repository available within the EIV (Enterprise Income Verification system) for debt owed and termination information of former program participants. The PHA must access this system at the time of application for rental assistance to determine a family's suitability for the HCV program and avoid providing limited federal housing assistance to families who either: (1) owe a debt to a PHA; or (2) have previously been unable to comply with HUD program requirements. The PHA cannot allow a person who owes a debt to a PHA to be added to their waiting list or provide housing assistance funds

for that family. The PHA must notify the family in writing and provide a contact name so the family may resolve any issues with debts owed to that PHA.

**PHA Policy**

Applicants who owe a debt to a PHA will be notified in writing and will have 10 calendar days to resolve that debt and provide proof to the Wichita Falls Housing Division that the debt has been resolved. If after 10 calendar days the applicant has not submitted proof that the debt has been resolved the application will be expired.

Applicants who are otherwise ineligible due to a 3-year penalty for move without notice, eviction, or previous termination for criminal records violations will be notified in writing and their application expired. The notice will include the date when the suspension will expire and the applicant can reapply. (See Chapter 11 – G for more information on 3 Year Penalties.)

Any applicant found to be ineligible will be notified, in writing of the ineligible status and the reason of ineligibility. A grievance packet will be also enclosed should the family wish to dispute the accuracy and relevance of the information prior to their application expiration. The Grievance Packet must be submitted in writing to the Housing Division within 10 business days of the date of the Ineligibility letter.

**2. Completion of Applications.**

**a. Time and Location for Applying.**

When the waiting list is open, an applicant can complete and return an application on Tuesdays any time between the hours of 8:00 AM and 5:00 PM at the Housing Division office located in the Neighborhood Services building, 1800 Seventh Street, Wichita Falls, TX 76301. Handwritten applications will be reviewed for completeness but will not be accepted until completed in their entirety. The data on handwritten applications will be entered into the computer system. Handwritten applications will be stamped with a mechanical Date-Time Stamp. This time and date serves as acceptance of the completed application. Handwritten applications will be placed on file in date and time order.

**b. Assignment to Waiting List**

If there are eligible applicants that cannot be housed immediately, they will be placed on the waiting list based on the Housing Division's established preferences first and then by date and time when the PHA received their completed application.

**c. Information Given to Applicants**

Applicants will be given an estimate of the range of months until assistance can be expected to be available. The applicant is informed at the time of application that because of the turnover rate, lack of federal housing funds, the requirement to take families based

on preferences and then date they apply, and the number of persons on the waiting list, most applicants will not be assisted within the first 90 days of their application.

Applicants will also be informed that all communications between the PHA and the applicant from this point on will be in writing and that for this reason they must be sure to provide the PHA with an address where they will be sure to receive any mail. Applicants are also informed that the mail is not forwarded and that any returned mail can result in their removal from the waiting list.

**d. Special Conditions.**

Persons who work, attend training or school during the time period used for taking applications will be allowed to complete an application either before or after normal office hours on Tuesdays. Persons living outside Wichita Falls or a person with disabilities that are unable to come to the office can apply by mail. Mailed applications will be reviewed for correct information and if correct, will be date/time stamped at the start of office hours on the next Tuesday and entered into the computer program. Arrangements can be made with a 24-hour notice, for staff to accept applications outside of normal working hours.

**e. Written Notice Requirement [24 CFR 982.5]**

All contact with applicants on the waiting list, except for the 90-day renewal of the application, must be done in writing. The 90-day renewal of applications can be done by telephone. After being issued a Housing Choice Voucher, all correspondence must be in writing. To have any validity, all contracts, transactions, notices, changes, or certifications, between the PHA and the participant as a tenant, the tenant and the landlord, and the landlord and the PHA must be in writing. While the family is on the Waiting List, the family must inform the Housing Division of all changes in family size or composition, preference status or contact information, including current residence, mailing address and phone number. All changes must be reported to the Housing Division in writing.

**f. Ninety Day Renewal Requirement [24 CFR 982.204]**

Applicants will be informed that they will have to renew their applications at the end of that 90-day period and every 90 days thereafter until they can be assisted. The application form also states that the application must be renewed every 90 days to remain active on the waiting list. A reminder form with instructions on how to renew the application is given to the applicant when they apply. The form states the first renewal date. The form also has a notice that all changes must be in writing. If the application was submitted by mail, this form will be mailed to the applicant along with a letter confirming the receipt of the application.

## **4 – I.G. WAITING LIST MAINTENANCE**

### **1. Purging the Waiting List [24 CFR 982.204]**

Failure to update an application within the 90 Day Renewal Requirement may cause the applicant to be removed from the waiting list. Purging the Waiting List will be completed as needed to remove applicants who are no longer interested in participating in the program. Prior to an Applicant being purged, a written notice to requesting the applicant to update the application will be sent and will give the Applicant 30 days to respond to the update request. This notice will state that failure to respond will result in the removal from the Waiting List. If an applicant does not respond by the 30-day deadline, a second notice will be sent, informing the applicant of the expiration of their application, reason for expiration, and that they may reapply at the next application time. Notices that are returned by the Post Office and marked as “undeliverable” will cause the application to be removed from the Waiting List.

### **2. Reasonable Accommodations [HCV Guidebook]**

If an applicant family demonstrates that it failed to update their application or failed to respond to a PHA’s request for the application update their application due to a family member’s disability, the Housing Division must consider this request as a reasonable accommodation as discussed in Chapter 2.

## **PART II. WAITING LIST SELECTIONS [CFR 982.207]**

### **4 – II.A. PREFERENCES**

The Housing Division maintains four weighted preferences. The preferences and the prospective weights will be as follows:

1) Working – 90 Consecutive Days	= 1
2) Disabled	= 1
3) Elderly – 62 Years of Age and Older	= 1
4) FYI Youth	= 2

#### **4 – II.B. PREFERENCE VERIFICATION:**

##### **1) Working – 90 Consecutive Days**

Families with an adult member that have been working for a period of 90 consecutive days prior to the selection process will be selected from the waiting list ahead of a family that does not. Families must provide 90 days of their most recent paystubs for verification. Families claiming self-employment as a working preference must provide a current tax return with a schedule C or CEZ form for verification.

##### **2) Disabled**

Family heads, co-heads, spouses, or single person families that are receiving Social Security Disability, Supplemental Social Security Income for their inability to work, or who been deemed disabled or handicapped by a physician, qualify for the Disability Preference. Applicants deemed disabled or handicapped by a physician must have a physician statement submitted to the Housing Division directly from the third-party source by mail, fax, or email to verify disability.

##### **3) Elderly**

The Housing Division must give an equal preference to a single family (with or without a working preference) if the head, co-heads and spouse, or sole member is age 62 or older, or is a single person with disabilities.

Elderly status can be verified by birth certificates, state issued photo identification, social security cards, and third party written verification of social security benefits received from the local SSA office that contain the birth date of the recipient. These can be used to verify birth date in place of a birth certificate.

##### **4) FYI Youth**

The Housing Division will give preference to Foster Youth Independence (FYI) youth whose 36-month FYI voucher is expiring and, as a result of the voucher expiration, will lack adequate housing. To be eligible for this voucher, the FYI Youth must be referred by the Texas Department of Family Protective Services (DFPS). The referral must indicate that without continued voucher assistance, FYI Youth will lack adequate housing. Receipt of this preference is not a guarantee of uninterrupted voucher assistance, as issuance of vouchers is dependent on funding availability. See Chapter 15 for more information on the FYI program.

#### **4 – II.C. NON-PREFERENCE SELECTION**

The remaining applicants will be selected from the waiting list by date and time of completed application.

#### **4 – II.D. INCOME TARGETING FOR EXTREMELY LOW-INCOME FAMILIES [24 CFR 982.201]**

The Federal regulations mandate that no less than 75% of new admissions have incomes at or below 30% of the Median Family Income by family size. At the present time the PHA is able to meet the requirement through the application process. If the PHA determines in mid-April, based on the available waiting list data, that it may not meet the 75% requirement by September 30, it will adjust the selection method. Until the 30% income requirement is met, only families at or below the 30% level will be selected, based on the application date and time order. After enough applicants meet this requirement the PHA will resume the normal selection process.

Should the Waiting List remain open for a reasonable amount of time for admission of extremely low-income families residing both inside and outside the PHA jurisdiction and family outreach has proven unsuccessful to allow for the 75% extremely low-income target to be achieved, the Housing Division will submit a request to HUD to lower this required percentage.

#### **4 – II.E. FOSTER YOUTH INDEPENDENCE (FYI) TARGETED FUNDING**

Eligibility for the FYI vouchers will be based on the respective HUD Notice of Funding Availability and limited to referrals approved by the Texas Department of Family and Protective Service (DFPS). When the Housing Division receives a completed application and referral from the DFPS, the applicant will be placed on the waiting list in order according to the date and time when the Housing Division first received both documents. FYI eligible applicants are granted a preference over all other applicants not eligible for FYI vouchers. Applicants certified eligible for the FYI vouchers will be coded as such on the Housing Division's waiting list. This preference will be granted only for the issuance of FYI vouchers and not any other voucher. If FYI vouchers are not available, FYI eligible families will maintain their original place on the waiting list for the issuance of non-FYI vouchers. All families granted a FYI preference will be prioritized based on date and time of being certified eligible and any other applicable preference (Working, Elderly, or Disabled).

If an applicant coded as FYI ceases to meet the criteria for FYI eligibility before the family has moved into an assisted unit, the Housing Division will remove the FYI coding. If the family or youth was previously on the Housing Division's waiting list, they will maintain their original place on the waiting list. If the youth or family was only on the waiting list due to a FYI referral, the family will be removed from the waiting list or, if already issued, the voucher will be expired. See Chapter 15 for more information on FYI.

#### **4 – II.F. NOTIFICATION OF SELECTION [24 CFR 982.554(a)]**

When the applicant is among the next group of families to be assisted from the waiting list, the Housing Division will schedule an appointment for the applicant to attend a Pre-Certification appointment and, if found to be eligible, a Briefing Class. Applicants will be sent a letter stating the date, time and location of the Pre-Certification Appointment and the Briefing Class. The letter will also detail who is required to attend the appointments, what documentation will be required to be provided during the Pre-Certification interview, and that failure to meet

scheduled appointments will cause their application to be expired and their name removed from the Waiting List.

## **PART III: THE PRE-CERTIFICATION INTERVIEW**

### **4 – III.A. PRE-CERTIFICATION OVERVIEW**

When a family has been selected from the Waiting List, the applicant will be scheduled for a Pre-Certification interview. During this interview, the Housing Division will gather the required documents to determine program eligibility as laid out in Chapter 3. The head of household and all adult members will be strongly encouraged to attend the interview together.

### **4 – III.B. REQUIREMENTS**

The head of household or spouse/co-head must provide acceptable documentation of SSN, Birth Certificate, State Issued Identification of legal identity, and, if applicable, eligible immigration status. The family must provide acceptable proof of income that is not more than 60 days old. If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for that preference. The family must provide all information necessary to establish the family's eligibility. The family must also complete all required forms, provide required signatures and submit required documentation. If any materials are missing, the Housing Division will provide the family with a list of items that must be submitted.

An advocate, interpreter or other assistant may assist the family with the application and the interview process. Interviews will be conducted in English. For limited English proficient (LEP) applicants, the Housing Division will provide translation services in accordance with the Housing Divisions LEP plan.

### **4 – III.C. DEADLINES**

#### **PHA Policy**

If the family representative does not provide the required documentation at the time of the interview, the applicant will be required to provide it no later than the 3 business days prior to the Briefing Class date. (Chapter 3 provides details about longer submission deadlines for particular items, including documentation of eligible non-citizen status). If the family is unable to provide the required documents and information within the required time frame, the family will be placed back on the waiting list according to the date and time of their application. Families unable to verify a preference claim will be placed back on the waiting list without the preference. A written notice will be sent to the family detailing the reasons for the return of the Applicant's name to the Waiting List.

If the family is unable to attend a scheduled interview, the family should contact the Housing Division in advance of the interview to schedule a new appointment. If the family is unable to attend an appointment prior to the cut-off date, the Family must request in writing that the Housing Division place the family back on the Waiting List. If the family fails to meet the scheduled appointments and has not requested to be placed back on the Waiting List prior to the cutoff date, their application will be expired and their name removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record.

#### **4 – III.D. COMPLETING THE PRE-CERTIFICATION PROCESS**

If the Housing Division determines that the family is ineligible, the PHA will provide written notification of the ineligibility determination within 7 business days of the scheduled briefing date. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 12 Part I).

If a family fails to qualify for any criteria that affected the order in which they were selected from the waiting list (targeted extremely low-income pulls), the family will be returned to its original position on the waiting list. The Housing Division will notify the family in writing that they have been returned to the waiting list, and will specify the reasons.

If the Housing Division determines that the family is eligible to receive assistance, the PHA will invite the family to attend a briefing class.

#### **4 – III.D . SPECIAL (NON-WAITING LIST) ADMISSIONS [24 CFR 982.203]**

The Federal Register and Title 24 Code of Federal Regulations (24 CFR) 982.203 provides a full list of permitted special or non-waiting list admissions. Special admissions can occur when HUD provides a fixed amount of assistance that is directly targeted to a specific group of identified persons, and further instructs the PHA to provide assistance to that group. This covers assisted complexes that choose Pre-Payment and Project-Based expiring contracts where the landlord/agent decides to opt-out and where families are displaced due to demolition or disposition of a public housing development. Public and Indian Housing (PIH) notices are issued on a regular basis that have detailed instructions on this assistance and how the PHA will administer them. If HUD awards program funding that is targeted for families living in specified units, the Housing Division must maintain records showing the family was issued a HUD-targeted Voucher. The PHA is ready to accept all the units that become available in the area.

## CHAPTER 5 INCOME, VERIFICATIONS AND SUBSIDY DETERMINATION

[24 CFR Part 5, Subparts E and F; 24 CFR 982, 153, 982.551]

### PART I. ANNUAL INCOME

Income sources are defined by federal regulations. Exceptions and exclusions are listed and updated by HUD on a regular basis. HUD publishes tables on Annual Median Family Income, adjusted for family size, on an annual basis. The methods of calculating the Total Tenant Payment and the family's share are determined by federal regulations.

#### 5 – I.A. ANNUAL INCOME OVERVIEW [24 CFR PART 5.609]

##### 1. Annual Income Definition

Annual income means all amounts, monetary or not, that go to or are on behalf of, the family head or spouse (even if temporarily absent) or to any other family member, or all amounts anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date, exclusive of income that is temporary, non-recurring, or sporadic as defined below, or is specifically excluded from income by other federal statute.

##### 2. Included Income

Annual Income includes but is not limited to:

- a. The full amount before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- b. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in internal revenue service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- c. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2)(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, 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;

- d. The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (3)(o) of this section);
- e. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (3)(c) of this section);
- f. Welfare assistance payments.
  - i. Welfare assistance received by the household.
  - ii. The amount of reduced welfare income that is disregarded specifically because the family engaged in fraud or failed to comply with an economic self-sufficiency or work activities requirement.
  - iii. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustments by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare income to be included as income shall consist of:
    - iii.1 The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
    - iii.2 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;
- g. 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.
- h. All regular pay, special pay and allowances of a member of the armed forces (except as provided in section 24 CFR 5.609(c)(7)).
- i. For Section 8 programs as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition and any other required fees and charges, that an individual receives under the higher education act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the higher education act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not

considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, “financial assistance” does not include loan proceeds for the purpose of determining income.

### 3. Excluded Income [24 CFR 5.609(b), Notice PIH 2024-38]

The following excerpt defines annual income exclusions:

<p><u>(b) Annual income does not include the following:</u></p> <p>(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.</p> <p>(2) The following types of trust distributions:</p> <p>(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under §5.603(b):</p> <p>(A) Distributions of the principal or corpus of the trust; and</p> <p>(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.</p> <p>(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.</p> <p>(3) Earned income of children under the 18 years of age.</p> <p>(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.</p>	<p>(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.</p> <p>(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.</p> <p>(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.</p> <p>(8) Income of a live-in aide, foster child, or foster adult as defined in §§5.403 and 5.603, respectively.</p> <p>(9)</p> <p>(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and</p> <p>(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of</p>
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housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—

- (1) The Federal government;
- (2) A State, Tribe, or local government;
- (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- (5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- (3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is

not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the

actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in §5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in §5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) 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.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the FEDERAL REGISTER to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that

offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a

business; except that the following shall be considered income to a family member:

(i) 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; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

#### **4. Other Income-Related Definitions:**

##### **a. Earned Income [24 CFR 5.100]**

Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

##### **b. Unearned Income**

Unearned income means any annual income, as calculated under 24 CFR 5.609, that is not earned income.

##### **c. Day Laborer [5.603]**

A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future. Income earned as a day laborer is not considered nonrecurring income under and must be included, unless specifically excluded in 24 CFR 5.609(b)

##### **d. Independent Contractor**

An independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax. In general, an individual is an independent contractor if they have the right to control or direct

only the conduct of the work. Income earned as an independent contractor is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR 5.609(b)

**e. Seasonal Worker**

A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry. Income earned as a seasonal worker is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR 5.609(b)

**5 – I.B. REQUIRED CONSENT [24 CFR 5.230, FORM HUD-9886]**

**1. Overview**

The Housing Division is required to verify income information used to establish the household's eligibility and level of assistance. The Housing Division is required to obtain the household's consent to collect this information. The verification process requires the family to provide and disclose information that is true and complete. Each member of the family who is at least 18 years of age, and each family head and spouse, regardless of age, shall sign one or more consent forms including HUD Form-9886 (Authorization for the Release of Information) as a condition of admission to the program and continued assistance.

**2. Authorization for the Release of Information (Form HUD-9886)**

Form HUD-9886 provides authorization for the following:

- HUD and the PHA to obtain any information necessary from State Wage Information and Collection Agencies (SWICAs) to verify information provided at the time of application or recertification. This authorization includes accessing HUD's Enterprise Income Verification System (EIV).
- HUD and the PHA to verify income information with previous and current employers that is pertinent to eligibility or level of assistance.
- HUD and the PHA to obtain information from financial institutions concerning unearned income.
- HUD to request income tax return information from the IRS and Social Security Administration (SSA) to verify income related to eligibility or level of assistance.

### **3. Family Responsibility**

#### **PHA Policy**

Families must notify the Housing Division within 30 days should a participating family contain a household member who turns 18 years of age between reexaminations. Families who are planning to add a household member 18 years of age or older must notify and receive approval from the Housing Division prior to the addition of the family member. All family composition changes must be approved by the Housing Department prior to the addition of the family member.

### **4. Revocation of Consent [24 CFR 5.230; 24 CFR 5.232]**

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

Revocation of consent or refusal to sign the consent forms prohibits the PHA from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program).

PHAs will not be able to process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).

Families have the right to revoke consent by providing written notice to the PHA, however, revoking consent may result in termination of assistance or denial of admission. PHAs must explain to families the consequences, if any, of revoking their consent.

PHAs must notify their local HUD office of a family's revocation of consent.

#### **PHA Policy**

Should a family exercise their right to revoke consent, the Housing Division will terminate the family's assistance. Prior to termination the Housing Division will remind the family that revoking consent will result in termination and provide the family the opportunity to rescind their request.

## **5 – I.C. INCOME & ASSET VERIFICATION [24 CFR 960.259]**

### **1. Overview**

The verification process during the time of pre-certification, interim and annual reexamination is a critical task in the administration of the Housing Division's programs. The Housing Division verifies all factors relating to eligibility determinations. These include: family composition and type, annual income, assets and asset income, child care

and medical expenses, social security numbers, and citizenship or eligible immigration status.

The Housing Division must also obtain and document in the tenant file third party verifications of the following as it pertains to: reported family income, the cash value of assets and income derived from assets; expenses related to deductions from annual income; and other factors that affect the calculation of adjusted income.

## **2. Income Verification Hierarchy [24 CFR 5.233, PIH Notice 2023-23]**

HUD mandates the use of EIV system and offers administrative guidance on the use of other methods to verify family information. HUD requires that the Housing Division to use the most reliable form of verification that is available and to document when a lesser form of verification is used:

The forms of verification that Housing Division will use, in order of priority are:

- a. Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- b. Up-front Income Verification (UIV) using a non-HUD system
- c. Third Party Authentic Verification
- d. Written Third-Party Verification Form
- e. Oral Third-Party Verification
- f. Tenant Declaration

## **3. Income Verifications**

### **a. Up Front Income Verification (UIV) Enterprise Income Verification (EIV) System**

PHAs are required to complete up-front income verifications using HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertification of family composition and income in accordance with 24 CFR 5.236 and PIH Notice 2018-18.

PHAs are required to review the Income Verification Tool (IVT) reports during mandatory and interim reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments. EIV is classified as an UIV technique (or automated written third-party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed.

EIV also provides various reports to assist PHAs with the following:

- Identifying tenants whose reported personal identifiers do not match the SSA database;
- Identifying tenants who need to disclose an SSN;
- Identifying tenants whose reported personal identifiers do not match the SSA database;
- Identifying tenants who may not have reported complete and accurate income information;
- Identifying tenants who have started a new job;
- Identifying tenants who may be receiving duplicate rental assistance;
- Identifying tenants who are deceased and possibly continuing to receive rental assistance; and
- Identifying former tenants of PIH rental assistance programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a PHA or Section 8 landlord.

**b. Up-Front-Income Verification (UIV) using a non-HUD system.**

Up-front income verification (UIV) refers to the Housing Divisions use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV using non-HUD systems is recommended by HUD and may provide income verification information at a faster rate than the EIV system.

**c. Written Third Party Verifications**

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

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

The PHA is required to obtain at a minimum, two current and consecutive pay stubs for determining annual income from wages, however, the collection of more than two paystubs will allow for a more accurate projection. For new income sources or when two pay stubs are not available, the PHA should project income based on the information from a traditional written third-party verification form or the best available information. Documents older than 60 days (from the PHA interview/determination or request date) may be acceptable for confirming effective dates of income.

Written third party verification is required by HUD to supplement EIV-reported income sources, to provide verification when EIV has no data, and to verify non EIV reported income sources. Written third party verification is also mandatory when the tenant disputes an EIV reported employment or other income information and the participant is unable to provide acceptable documentation to support the dispute.

**d. Written Third Party Verification Form**

Written Third Party Verification Form includes a standardized form to collect information directly from a third-party source. The PHA sends the form directly to the third-party source by mail, fax, or email and the form is completed by the third party and then returned directly to the PHA. The family is required to sign an authorization allowing the information source to release the specified information. Verification by a Written Third Party Verification Form is mandatory when written third party verification is not available.

**PHA Policy**

One attempt to obtain third-party verification is made before relying on another method.

Third-party verification forms, including computerized printouts, may not be hand carried by the family under any circumstances.

The Housing Division will allow two weeks for return of third-party verifications. If third-party verification is not used, the Housing Division will document the reasons in the file.

For applicants, verification may not be more than 60 days old at the time of voucher issuance. For participants, verification obtained at reexamination must be no more than 120 days old.

Many times the third party verification is received weeks or months after the income determination. The Housing Specialist(s) will review the information and compare the income, hours, pay scale etc. to determine if the calculation of projected income is correct. If adjustments are necessary, the tenant will be called in to recalculate the income.

**e. Oral Third-Party Verification**

Oral Third-Party Verification is used when written third-party verification is delayed or impossible. When third-party oral verification is used, staff is required to record in the tenant file, with whom they spoke, the date of conversation, the facts provided, and the reason third-party verification was not available. If oral third-party verification is provided by telephone, the staff person must originate the call. If third-party verification is not available, the Housing Division will compare the specified information to any documents provided by the family.

**f. Tenant Declaration**

Tenant Declaration or self-certification is used as a last resort when the PHA is unable to obtain third-party verification. When the PHA relies on tenant declaration, the PHA must document in the tenant file why third-party verification was not available.

**i. Excluded Income**

The Housing Division will accept self-certification for fully excluded income. Fully excluded income includes food stamps, earned income of minors, live-in-aide's income, foster care, etc.

The Housing Division is not required to verify fully excluded income as per HUD's verification hierarchy and document the absence of 3<sup>rd</sup> party verification. The Housing Division is not required to report fully excluded income on the HUD form 50058.

**ii. Total Assets Less than \$5,000**

The Housing Division will accept self-certification for family assets total \$5,000 if the tenant is unable to provide a means of verification.

**4. Review of Documents**

**PHA Policy**

Review of Documents – In the event that third-party written or oral verification is unavailable or information has not been verified by a third party within four weeks, the PHA will annotate the file accordingly and utilize documents provided by the family as the primary source if the documents contain complete information.

If third-party verification is received after documents have been accepted as provisional verification and there is a discrepancy, the Housing Division will contact the third-party source and family to resolve differences.

The Housing Division will allow one week for families to provide documents when third-party verification is impossible to obtain.

The Housing Division will not delay the processing of an application beyond 45 days because a third-party information provider does not return a verification in a timely manner.

## **5. Income & Asset Verification Policies**

### **a. Document Requirements**

- i. The Housing Division may accept verifications in the form of:
  - Scanned documents from third parties.;
  - Printed wage stubs;
  - Computer printouts from employers;
  - Signed letters provided that the information can be confirmed by phone;
  - Official documents from federal, state or local agencies;
  - Bank statements;
  - The Housing Division will not accept photocopies but will accept faxed and electronically submitted documents.
- ii. The Housing Division will photocopy verification documents when not prohibited by law. When documents cannot be photocopied, staff certification forms noting the document viewed will be used by recording the source of information, the information obtained and signed/dated by the staff person who viewed the document.
- iii. The Housing Division will document the file describing why a lower method of verification was used.
- iv. Any household self-certifications must be made in a format acceptable to the Housing Division. The Housing Division may require that family self-certifications be signed in the presence of a Housing Division representative or Notary Public.

### **b. Income Verification**

#### **i. Wages / Self Employment**

For verification of wages the Housing Division requires a minimum of 2 consecutive paystubs; however, the Housing Division may request additional paystubs, i.e. if the pay frequency is irregular. Whenever available, the collection of more than two paystubs will allow for a more accurate projection. The Housing

Division will use tax form Schedule SE (Form 1040) from the family's most recent tax submission to verify self-employment.

**ii. Disability**

The Housing Division will use third party written verification of social security disability benefits received from the local SSA office or a physician's statement confirming disability or handicap status. Physician statements must be submitted to the Housing Division directly from a medical professional and cannot be hand carried in by the family

**iii. Other Government Benefits**

For verification of government benefits such as SNAP, Medicare, Medicaid, the Housing Division will accept documentation from the agency on such benefits.

**iv. Child Support**

The Housing Division will use authentic documents from the Office of the Attorney General to verify income received from Child Support.

**Special Procedures for Verification of Erratic Child Support Income**

The full amount of child support payments awarded is counted as income unless it is verified that the payments are not being made.

The following documentation is required to verify that the family receives less than the court ordered amount of child support:

- Current print out from the child support enforcement agency indicating the dates and amount of payments actually received;
- If payments have stopped: a faxed or emailed verification received from the State of Texas Attorney General's Office. This verification will provide the amount of the court ordered child support as well as the date and amount of the last payment actually received;
- Information accessed on the internet through the State of Texas Child Support Interactive website which provides the date and amount of the last 12 payments made will be acceptable. Depending on the frequency of the payments, this will provide a three to twelve-month payment history.

**v. Other Support**

If a tenant receives payment of utilities or other expenses from a third party or combination of third parties (such as relatives, friends, churches, United Way, or Interfaith Ministries, etc.) and these payments are on a recurring basis (more than

three times in a one-year period) the PHA must consider this as income. This is income to the tenant regardless of whether the tenant made the payment or the benefactor made the payment on the tenant's behalf. The tenant must disclose all income received from all sources or face termination from the program for unreported or under-reported income.

The PHA may, at their sole discretion, exclude income received for certain CDBG funded training programs. HUD may mandate other types of income to be excluded.

**c. Assets Verifications**

**i. Family Assets**

The Housing Division will utilize the current balance for savings and checking accounts. The Housing Division will require the information necessary to determine the current cash value of a family's assets (the net amount the family would receive if the asset were converted to cash).

To document an asset, the following third-party documentation may be accepted:

- Letters or documents provided directly by the financial institution or broker;
- Passbooks, checking account statements, certificates of deposits, bonds, or financial statements supplied by a family if completed by a financial institution or broker;
- Real estate tax statements if the approximate current market value can be deduced from them;
- Financial statements for business assets;
- Copies of closing documents showing selling price and distribution of sales proceeds;
- Appraisals of personal property held as an investment;

Should third-party documentation not be available, assets can be verified by a third-party verification form that is mailed or faxed by the Housing Division directly to the financial institution.

The PHA may accept a family's self-certification describing assets or cash held at the family's home or in safe-deposit boxes should no other third party documentation be available.

**ii. Assets Disposed of for Less Than Fair Market Value During Two Years Preceding Effective Date of Certification or Recertification**

At admissions and reexaminations, the Housing Division will obtain each family's certification that it has or has not disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification. If the family certifies that it has disposed of assets for less than fair market value, the certification must show: (a) all assets disposed of for less than fair market value, (b) the date they were disposed of, (c) the amount the family received for each asset, and (d) the market value of each asset at the time of disposition. Third-party verification will be obtained whenever possible.

**iii. Income from Assets**

Savings or Checking Account Interest and Dividend Income – Acceptable methods of verifications include, in this order:

- Housing Division verification forms filled out or other statements supplied by the financial institution or, if these are not available, account statements, passbooks, or certificate of deposit statements supplied by the family;
- Broker statements showing the value of stocks or bonds and the earnings credited to the family. (Earnings can also be obtained from current newspaper quotations or orally for brokers.);
- IRS Form 1099 from a financial institution provided that the Housing Division adjusts the information to project earnings expected for the next 12 months.

Interest Income from Mortgage and Similar Arrangements – Acceptable methods of verification include, in this order:

- A letter received directly from an accountant, attorney, real estate broker, the buyer, or a financial institution stating the interest due for the next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless the breakdown of interest and principal is shown.);
- An amortization schedule showing interest for the 12 months following the effective date of certification or recertification.

Net Rental Income from Property Owned by Family – Acceptable methods of verification include, in this order:

- IRS Form 1040 with Schedule E (Rental Income);
- Copies of latest rent receipts, leases, or other documentation of rent amounts;

- Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense;
- Lessee's written statement verifying rent payments to the family and the family's self-certification of net income realized

**iv. Disclosure Requirement**

The tenant must disclose all income received from all sources or face termination from the program for unreported or under-reported income.

**5 – I.D. MANDATORY USE OF EIV [24 CFR 5.233]**

PHAs must use HUD's Enterprise Income Verification (EIV) system to verify tenant employment and income information at annual reexaminations of family composition and income. PHAs are required to use EIV in its entirety, including using all of the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information.

PHA's is required to use the following EIV reports:

**1. Debts Owed to PHAs & Terminations.**

- The Debts Owed to PHA's & Termination Report allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.
- PHA's are required to use this report at the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended program participation.

**2. Deceased Tenants Report**

- The Deceased Tenants Report identifies tenants reported by Social Security Administration (SSA) as being deceased.
- PHA's are required to run this report at least quarterly.

**3. Existing Tenant Search**

- The Existing Tenant Search report identifies applicants who may be receiving assistance at another Multifamily project or PIH location.
- PHA's are required to run this report at the time of processing an applicant family for admission.

#### **4. Failed EIV Prescreening Report**

- The Failed EIV Prescreening Report identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP (formerly known as PIC)/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test
- PHA's are required to run this report monthly.

#### **5. Failed Verification Report (Failed SSA Identity Test)**

- The Failed Verification Report identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database.
- PHA's are required to run this report monthly.

#### **6. Identity Verification Report**

- Identity Verification Report identifies tenants that, failed SSA verification, and failed EIV pre-screening.
- PHA's are required to run this report monthly.

#### **7. Income Information for PIH Programs**

- The Income Information for PIH Programs report provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test.
  - Identifies tenants who:
    - May not have reported complete and accurate income information; and/or
    - May be receiving multiple subsidies.
- PHA's are required to run this report at annual reexamination but not required at interim reexaminations.

#### **PHA Policy**

The Housing Division will run the Income Information report from EIV at both annual and interim reexaminations.

#### **8. Income Validation Tool Report for PIH Programs**

- The Income Validation Tool Report for PIH Programs projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to

HUD's data sharing agreements with the Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, and the SSA.

- PHAs are required to obtain an EIV Income and Income Validation Tool Report for each family any time the PHA conducts an annual reexamination of family income and composition. PHAs may use the report at other intervals, in accordance with the PHA's Administrative Plan.

## **9. Multiple Subsidy Report**

- The Multiple Subsidy Report identifies tenants who may be receiving rental assistance at more than one location.
- PHA's are required to run this report at least quarterly

## **10. New Hires Report**

- The New Hires Report identifies tenants who have new employment within the last six months. Report is updated monthly.
- PHAs must review this information at annual reexamination.

## **11. No Income Reported by HHS or SSA**

- The No Income Reported by HHS or SSA report identifies tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs must obtain written, third-party verification of any income reported by the tenant.
- As identified in a PHA's Administrative Plan written EIV policies and procedures.

### **PHA Policy**

The Housing Division will run this report at least quarterly.

## **5 – I.E. EARNED INCOME DISREGARD (EID) [PIH Notice 2023-27]**

HUD has discontinued the Earned Income Disregard (EID). As a result, no new individuals may qualify for the EID after December 31, 2023. Any individual who has an EID as of December 31, 2023 may continue to use the EID until it expires.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

## **5 – I.F. CALCULATING INCOME [24 CFR 5.609]**

### **1. Projecting Annual Income [24 CFR 5.609(d)]**

Federal regulations require the PHA to project a tenant's income twelve months into the future. One way to project income is to verify the income previously received. The PHA will use a variety of ways to logically and fairly predict a tenant's projected income.

If it is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income), or the PHA believes that past income is the best available indicator of expected future income, the PHA may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

#### **PHA Policy**

##### **a. Calculations**

The gross annual income of a family is determined as a result of taking the amount received during varied pay periods and making the figure an annualized amount.

To arrive at an annual income:

- Multiply the monthly income as reported by twelve,
- Multiply the weekly pay as reported by 52 (weeks),
- Multiply a payroll of every two weeks as reported by 26,
- Amounts for paydays that occur twice a calendar month are calculated by taking the gross amount and multiply it by 24, or
- For incomes based on an hourly pay scale multiply by 2080 hours.

##### **b. Overtime & Self Employment**

The applicant or participant may be asked about any overtime that they receive on a regular basis. Income tax returns can be viewed to verify persons that receive tips or income from self-employment. Applicant's and participant's income from self-employment shall be based on the most recent tax return. Should a tax return not be available, such as in cases where the amount of income received is below the reportable

IRS threshold or taxes have not been filed on a new business, a self-certification signed by the family may be accepted at the discretion of the PHA.

**c. Applying SSA COLA at Annual / Interim Reexamination [982.516]**

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits.

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all Annual Reexaminations and Interim Reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

## **PART II. ADJUSTED ANNUAL INCOME**

**5 – II.A. OVERVIEW [24 CFR 5.611]**

Adjusted Annual Income means the Annual Income minus any of the mandatory deductions for which the family qualifies.

**5 – II.B. MANDATORY DEDUCTIONS. [24 CFR 5.611, PIH Notice 2023-27]**

In determining adjusted income, the Housing Division must deduct the following amounts from annual income:

**1. Dependent Deduction**

A dependent is a family member other than the head or spouse (which excludes foster children and foster adults) who is under 18 years of age, or is a person with a disability, or is a full-time student. [24 CFR 5.603].

The Dependent Deduction is currently \$480 for each dependent. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be adjusted annually by HUD in accordance with Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25.

## **PHA Policy**

**Minor status** is verified with a certified birth certificate and social security card. A certified birth certificate is one that has been issued from a government institution in the location in which the person has been born and shows the date of birth and relationship to the head of household.

**Student status** is verified by written third-party verification using the Housing Division's Student verification form mailed to the educational institution. The institution defines what full-time student means for its student population. Options which may be used for verifying student status include: oral third-party verification by contacting the institution's registrar's office, a current enrollment status letter showing the school's name and address, dates of enrollment and total number of classes or credits attempted in a given quarter or semester. Verification requests should be mailed, faxed, or emailed directly to the school and completed verification should be received directly from the school.

### **2. Elderly / Disabled Deduction**

#### **a. Elderly Family**

An **elderly family** is a family whose head or spouse is at least 62 years of age. The Elderly / Disabled Family Deduction is \$400. (See Chapter 4 – II.B for verification of Elderly Family Status.)

#### **b. Disabled Family**

A **disabled family** is a family whose head, spouse or sole member is a person with disabilities. (See Chapter 4 – II.B for Disability verification.)

### **3. Health and Medical Care Expenses & Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction**

#### **a. Health & Medical Expenses**

Health and medical care expenses as defined in 24 CFR 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

The health & medical expense deductions are permitted only for households in which the head, spouse, or co-head is elderly or disabled. Health and medical expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed.

### **PHA Policy**

IRS Publication 502 is used as guidance in determining allowable medical expenses which may include:

<b>Summary of Allowable Medical Expenses from IRS Publication 502</b>	
<ul style="list-style-type: none"><li>• Services of doctors and health care professionals</li><li>• Surgery and medical procedures that are necessary, legal, non-cosmetic</li><li>• Services of health care facilities</li><li>• Hospitalization, long-term care, and in- home nursing services</li><li>• Medical insurance premiums</li><li>• Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor</li><li>• Nutritional Supplements only if specifically recommended by a doctor to treat a specific medical condition diagnosed by a physician</li><li>• Live-in or periodic medical assistance</li></ul>	<ul style="list-style-type: none"><li>• Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)</li><li>• Substance abuse treatment programs</li><li>• Ambulance services and some costs of transportation related to medical expenses</li><li>• Dental expenses, eyeglasses, hearing aids, batteries</li><li>• Monthly payment on accumulated medical bills. The allowance may include only the amount expected to be paid in the coming 12 months.</li><li>• Hospitalization, long-term care, and in- home nursing services</li></ul>

**Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

#### **b. Reasonable Attendant Care and Auxiliary Apparatus Expenses**

Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing.

Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

In order to claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

**c. Deduction & Threshold**

Unreimbursed health and medical expenses in combination with any unreimbursed reasonable attendant care and auxiliary apparatus expenses may be deducted to the extent that they exceed the HUD-established percent of annual income threshold.

The threshold for Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses is currently set at 3 percent of annual income. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be increased to 10 percent of annual income. See Chapter 5 – II.D. for information about hardship exemptions.

**d. Verifications**

**PHA Policy**

**i. Medical Expenses**

Verification of unreimbursed Health and Medical Care Expenses will be verified through written third-party documents provided by the family (example: pharmacy printouts or receipts, etc.). If the family is unable to provide acceptable documentation the Housing Division will attempt to verify the medical expenses through third-party verification forms.

**ii. Reasonable Attendant Care**

Verification of unreimbursed Reasonable Attendant Care will be verified through written third-party documents provided by the family such as receipts for attendant care, ledgers showing payment from the tenant or if family provided documents are not available, a third-party verification form signed by the provider.

**iii. Auxiliary Apparatus Expenses**

Verification of unreimbursed Auxiliary Apparatus Expenses will be verified through written third-party documents provided by the family such as billing statements for purchase of auxiliary apparatus, other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months, or if family provided documents are not available, a third-party verification form signed by the provider.

The Housing Division must also verify that the family member for whom the expense is incurred is a person with disabilities and that the expense permits a family member, or members, to work.

**iv. Family Member(s) Permitted to Work**

The Housing Division must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to be employed.

The Housing Division will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work. If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

**4. Child Care Expenses**

Reasonable Childcare Expenses are amounts anticipated to be paid by a family for the care of children under 13 years of age if the care is necessary to enable a family member to do any of the following: actively seek employment, be gainfully employed, or further the member's education. More than one family member may be enabled to engage in any one of these qualifying activities for child care purposes.

Childcare expenses are deductible only to the extent that they are not reimbursed by any agency or individual outside the household, they reflect reasonable charges for childcare, and the expenses incurred to enable a family member to work do not exceed the amount earned.

**PHA Policy**

Child Care Expenses will be verified through written third-party documents from the childcare provider. These documents may be hand carried by the family. If the family provided documents are not available, the Housing Division will use third-party written verification to verify childcare expenses by faxing, mailing, or emailing a Child Care Verification Form directly to the childcare provider.

Staff will compare the hours during which childcare is provided to the hour's the family members are working or engaging in one of the other qualifying activities to determine if child care is necessary to enable the qualifying activities.

Child care expenses are only considered valid if 1) the income made available to the family by the family member working or going to school exceeds the child care costs, 2) the child care enables a family member to work or attend school, and this is documented, 3) the participant provides a statement (third party verification) from the child care provider that the participant actually paid for the child care, 4) If care is provided by an individual, provide the name, address, rates charged, and certification that child care

provider be will report the income to the IRS. Payments over \$600 in a year to an individual will require a record of payment in the form of an IRS form 1099 or W2.

The Housing Division may use reasonable costs as listed under the Texas Child Care Market Rate Survey as provided by the Texas Institute for Child & Family Well Being as a guide in determining reasonableness for childcare expenses.

## **5 – II.C. INCOME CEILINGS AND DEDUCTIONS**

### **PHA Policy**

When imposing the employment income ceiling, the Housing Division will consider:

- If the assistance enables more than one person to be employed, the incomes of those persons will be combined to determine the ceiling; and
- If an auxiliary apparatus enables the person with a disability to be employed and frees another person to be employed, the allowance cannot exceed the combined incomes of those two people.

If both child care and a disability expense are needed to enable a person in the family to work, the employment income used to justify the child care allowance for employment purposes may not be used to also justify the disability assistance allowance.

*For example:*

The family pays:	Child Care	\$100 per week
	Disability assistance	\$100 per week
	Total	\$200 per week

The combined care enables an adult to work and earn \$150 per week. The total for both the disability assistance allowance and the childcare allowance for employment purposes may not exceed \$150 per week.

## Part III. SUBSIDY DETERMINATIONS

### 5 – III.A. CALCULATION OF RENTS AND HOUSING ASSISTANCE PAYMENTS

#### 1. Total Tenant Payment (TTP) [24 CFR 5.628]

***Determining total tenant payment (TTP):*** Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:

- (1) 30 percent of the family's monthly adjusted income;
- (2) 10 percent of the family's monthly income;
- (3) The welfare rent (in as-paid states only)
- (4) The minimum rent of \$50 which is established by the Housing Division.

The amount the family pays for rent and utilities (family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit that the family selects.

#### 2. Family Share [24 CFR 982.305(a)(5)]

The Housing Specialist(s) will be responsible for the calculation of the Family Share. The Family Share is based on the information of income and documentation for deductions provided by the applicant and verified by a third party.

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the Housing Division's applicable payment standard the family will pay more than the TTP. At initial occupancy the Housing Division may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. Income must be verified prior to voucher issuance and, if the family's income has changed or any income verification is more than 120 days old, will be reverified prior to lease up.

#### 3. Welfare Rent [24 CFR 5.628]

Does not apply in this locality

#### 4. Minimum Rent [24 CFR 5.630]

##### a. Minimum Rent Amount

The minimum rent for Housing Choice Voucher participants is \$50.00. All voucher families will contribute the highest of thirty percent (30%) of monthly adjusted income or ten percent (10%) of monthly gross income, or the minimum rent toward the rent plus any rent above the applicable Payment Standard.

b. Minimum rent exemptions:

The minimum rent requirement may be waived under certain circumstances. Financial hardship status may be granted for a ninety (90) day period beginning the month following the family's written request in the event of the following:

- i. The family has lost eligibility or is awaiting an eligibility determination to receive federal, state or local assistance, including a family having a non-citizen household member lawfully admitted for permanent residence and who would be entitled to public benefits under Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- ii. The family income has decreased due to changed circumstances such as separation, divorce, abandonment;
- iii. One or more family members have lost employment;
- iv. The family would be evicted as a result of imposing the minimum rent requirement;
- v. There has been a death in the family; or
- vi. There are other hardship situations determined by the PHA on a case by case basis, i.e. emergency hospitalization.

## **5 – III.B. MINIMUM RENT HARDSHIP EXEMPTION**

Financial hardship exemptions only apply to payment of minimum rent, not to rent based on the formula for determining the Total Tenant Payment. (TTP)

Other requests may be considered at the Housing Administrators or his / her designees discretion.

### **1. Temporary Hardships**

When the tenant initiates a request for a hardship exemption that the PHA determines is temporary in nature:

- a. Rent may be suspended, during the 90-day period beginning on the day the request is made. At the end of the ninety 90-day period, the minimum rent is reinstated retroactively to the date of suspension and the HAP is again adjusted.
- b. The PHA will allow the family a maximum of 24 months to make payment of any delinquent minimum rent payments accrued during the suspension period. However, the family must execute a hardship repayment agreement with a minimum payment of \$20.00 per month. (See Chapter 13 – IV.E. for more information on Hardship Repayment Agreements.)
- c. The family may not be evicted for non-payment of rent during this 90-day period.

## **2. Long Term Hardships**

When the tenant initiates a request for a hardship exemption that the PHA determines is **long term** in nature:

- a. The PHA may exempt the family from the minimum rent requirements so long as such hardship continues.
- b. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

## **3. Repayment of Minimum Rent**

The Family is subject to the terms of the hardship repayment agreement policy. (See Chapter 13 – IV.E).

Hardship determinations are subject to the PHA's Informal Hearing Process and families are exempt from any escrow deposit that may be required under regulations governing the hearing process for other determinations.

## **5 – III.C. ZERO INCOME REVIEWS**

### **PHA Policy**

Zero income reviews will be completed by the Housing Division for families that have reported no verifiable income, or that have an income less than the current TANF, Social Security retirement or SSI amounts. When a family reports no verifiable income, a zero-income questionnaire will be completed which explains how the family pays for household expenses. These families will be referred to as many sources of assistance within the community as possible to get the level of income assistance they deserve. As with all admissions, the Housing Division must verify families' income in EIV within 120 days of admission.

Zero income reviews will be completed at lease up, annual reexamination, and interim reexamination as needed. The Housing Division retains the option to complete a zero-income review outside of these examination periods as needed. A family who begins receiving income is no longer considered zero income.

## CHAPTER 6 – BRIEFINGS AND VOUCHER ISSUANCE

### PART I. BRIEFING AND FAMILY OBLIGATIONS

[24 CFR 982.301]

#### 6 – I.A. OVERVIEW

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

#### 6 – I.B. SCHEDULING AND WRITTEN NOTICE TO ATTEND [24 CFR 982.301 (a)]

When a family has been selected from the waiting list, the applicant will be scheduled for an Oral Briefing pending Pre-Certification eligibility approval. An applicant's eligibility will be determined based on the most current federal regulations and guidelines. Failure to attend this briefing session appointment, without justifiable cause, will result in removal of the family's name from the waiting list. The family will be notified and offered the opportunity to reapply. An applicant can submit a written request to reschedule to the next briefing as long as the office receives the letter 24 hours prior to the briefing date.

#### 6 – I.C. ORAL BRIEFING REQUIREMENTS [24 CFR 982.301 (a)]

HUD Requires each oral briefing to include:

- A description of how the program works;
- Family and owner responsibilities;
- Where the family may lease a unit, including renting a dwelling unit inside or outside the PHA jurisdiction, and any information on selecting a unit that HUD provides;
- An explanation of how portability works;
- The advantages of areas that do not have a high concentration of low-income families.

#### Additional SEMAP Requirements [24 CFR 985.3(c)]

In addition, HUD requires that the PHA prepares, assembles and uses the following information in the briefing of voucher holders:

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction, and
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services.

### **PHA Policy**

The Housing Division will provide the family an oral briefing either individually, in groups, or electronically.

- All adult members in the Household are required to attend the briefing.
- Families that attend group briefings and still need individual assistance will be referred to an appropriate staff person. If additional assistance is needed due to a disability or Limited English Proficiency (LEP), staff will coordinate services to ensure information is communicated appropriately to meet the needs of the applicant.

### **6 – I.D. THE BRIEFING INFORMATION PACKET [24 CFR 982.301 (b)]**

In addition to the Briefing, families selected to participate in the program will be given an electronic or paper Briefing Information Packet which contains written information about the HCV program. HUD has established a minimum list of items to be in the packet and the City has added additional items of information.

#### **Briefing Packet Requirements**

HUD requires the Briefing Information packet to include:

1. The term of the voucher, voucher suspensions, and PHA policy on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
2. How the PHA determines the amount of the housing assistance payment for a family, including:
  - a. How the PHA determines the payment standard for a family; and
  - b. How the PHA determines the total tenant payment for a family.
3. How the PHA determines the maximum rent for an assisted unit.
4. Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process, which may affect the family's assistance.
5. The HUD-required “tenancy addendum” that must be included in the lease.
6. The form that the family uses to request PHA approval of the assisted tenancy, and an explanation of how to request such approval.

7. A statement of the PHA policy on providing information about a family to prospective owners.
8. PHA subsidy standards, including when the PHA will consider granting exceptions to the standards.
9. Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.
10. Information on federal, State and local equal opportunity laws, and a copy of the housing discrimination complaint form.
11. A list of landlords known to the PHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit. PHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.
12. Notice that if the family includes a disabled person, the family may request a current listing of accessible units known to the PHA that may be available.
13. Family obligations under the program, including any obligations of a welfare-to-work family.
14. The advantages of areas that do not have a high concentration of low-income families.

**Additional Requirements [ 24 CFR 982.552]**

15. The grounds on which the PHA may deny or terminate assistance because of family action or failure to act.
16. The PHA informal hearing procedures.

**Additional SEMAP Requirements [24 CFR 985.3(g)]**

17. An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers.

**PHA Policy**

The Housing Division will also include the following items in the Briefing Packet:

- The HUD pamphlet on lead-based paint entitled Protect Your Family from Lead in Your Home.
- 2005 (VAWA) to victims of domestic violence, dating violence, sexual assault and stalking (see Chapter 13 Part VIII).
- “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12.
- Housing Inspection Information.
- Information on security deposits for both the unit and for any tenant paid utilities.

## **6 – I.E. FAMILY OBLIGATIONS [24 CFR 982.551]**

### **1. Overview**

Family obligations are described in 24 CFR 982.551 and are also described on the voucher that is given to the family. These obligations include responsibilities that the family is required to fulfill, as well as prohibited actions. HUD requires that the Housing Division inform families of their obligations during the oral briefing. Family Obligations must also be included in the briefing packet. Violation of any family obligations may result in termination of assistance. (See Chapter 11 for more information on Terminations.)

### **2. Time Frames for Reporting Changes Required by Family Obligations**

#### **PHA Policy**

Tenants are required to report any changes in income or changes to family composition within 30 days of the change.

### **3. Family Obligations of the Participant**

The family obligations are listed as follows:

#### **a. Supplying Required Information**

- The family must supply any information that the PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5). “Information” includes any requested certification, release or other documentation.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
- The family must disclose and verify social security numbers of all household members and must sign and submit consent forms for obtaining information in accordance 24 CFR Part 5 Subpart B.
- Any information supplied by the family must be true and complete.

#### **b. Inspections of the Unit**

##### **i. HQS Breach**

The family is responsible for any Housing Quality Standards (HQS) breach by the family, as defined in 24 CFR 982.404. HQS breach by the family includes:

- Failure to pay tenant-provided utilities,
- Failure to provide and maintain tenant-provided appliances required by HQS, or
- Damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

**PHA Policy**

Damages caused by break-ins and burglaries are considered the responsibility of the tenant, as they are in open market rentals.

**ii. HQS Repair Time-Lines**

- If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours.

**PHA Policy**

Tenant-provided utilities must be kept in service at all times. Disconnected tenant-provided utilities, due to the actions or inactions of the family, must be corrected within 24 hours.

- For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any PHA-approved extension).
- If the family has caused a breach of the HQS, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family in accordance with 24 CFR 982.552. (See Chapter 11 for information on Terminations.)
- The family must allow the Housing Division to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 7 of this plan.

**c. Complying with Lease Terms**

- The family must not commit any serious or repeated violation of the lease. (See 24 CFR 5.2005(c))
- The family must notify the Housing Division and the owner before moving out of the unit or terminating the lease. (See Chapter 10 for information on moving with continued assistance.)
- The family must promptly give the Housing Division a copy of any owner eviction notice.

**PHA Policy**

- The family must comply with lease requirements regarding written notice to the owner.
- The family must provide written notice to the Housing Division at the same time the owner is notified.
- The family must provide written notice to both the Housing Division and the Owner prior to vacating a unit. Written notice must be in accordance with the terms of the lease. Most lease terms require at least a 30-day written notice. Vacating a unit without proper notice may result in a 3-Year Penalty. (See Chapter 11 for more information on 3-Year Penalties)

**d. Use and Occupancy of the Unit**

The family must use the assisted unit for residence by the family. The unit must be the family's only residence. The family must promptly notify the Housing Division if any family member no longer resides in the household.

The composition of the assisted family residing in the unit must be approved by the Housing Division. The family must promptly notify the Housing Division in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit. No other person except members of the assisted family may reside in the unit (except for a foster child, foster adult or live-in aide as provided in this chapter).

If the PHA has given approval, a foster child, foster adult, or a live-in-aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residence by a foster child, foster adult, or a live-in-aide, and defining when PHA consent may be given or denied. The family must not sublease the unit. The family must not assign the lease or transfer the unit.

**i. Changes in Family Composition**

**PHA Policy**

The request to add a household member must be submitted in writing and approved prior to the person moving into the unit. The Housing Division will determine eligibility of the new member in accordance with the policies in Chapter 3.

**ii. Guests**

A Guest is defined in 24 CFR 5.100 as a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to such consent on behalf of the tenant.

### **PHA Policy**

Landlords may define in their lease if the tenant may have overnight guests and for what length of time. If not specified in the lease the PHA has established three days as the ideal length for stays for anyone not living more than 100 miles away. If the landlord approves, out-of-area guests can stay up to one week.

### **Guest Exceptions**

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 30 consecutive days).

#### **iii. Unauthorized Occupants**

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

It is part of the Family Responsibilities to keep the PHA informed of the composition of their household. Failure to meet this responsibility can result in loss of the family's assistance (See Chapter 11 for information on Terminations).

Applicants and participants will be warned that persons not on the lease are not part of the household, even if blood, marriage or legal instrument relates them. Only persons listed on the lease may reside in the unit. The income of all persons residing in the unit are used to determine the family's share of the rent. Failure to keep unauthorized persons from being in the unit can result in loss of assistance for the family (See Chapter 11 for information on Terminations).

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence. The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household. Unauthorized occupants may result in the termination of assistance. (See Chapter 11 for more information on Terminations)

Any person not listed on the lease cannot be considered a remaining family member under the program guidelines. Attendant care persons (Live-In-Aides), whose incomes are not counted for determining the eligibility or the rent of the family, are not parties to the lease even if listed on the lease. They

would not be considered the remaining member of the tenant family in the event the lessee dies or vacates the dwelling unit. Information that there is an attendant care person in the household may be listed on the lease. However, that does not make them a party to the lease. It is best to have the live-in-aide listed by name on the lease.

**iv. Absence from the Unit [24 CFR 982.312]**

The family may be absent from the unit for brief periods. For longer absences, the PHA administrative plan establishes the PHA policy on how long the family may be absent from the assisted unit.

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

**PHA Policy**

Written notice to the Housing Division is required under this provision when any individual family member or all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be submitted to the Housing Division as soon as possible but not later than 30 days from the start of the absence.

The maximum number of days that all family members may be absent from the unit is 90 consecutive calendar days, as long as written notice was provided to both the landlord and the PHA within the first 30 days the unit is vacant. The family must inform the PHA and the landlord/agent, in writing, of any family circumstances causing an absence as soon as possible but not later than 30 days of the vacancy.

The landlord can declare the unit abandoned if no notice is received within 30 days. Vacations, outside the area, for a period of no more than 30 days are permitted, but only with written notice to both the PHA and the landlord. These absences can also be for stays in a nursing home, assisted living units, hospital, when the tenant is receiving live-in medical care at another location, or for a single member family being incarcerated in prison or jail. The maximum number of days that all family members may be absent from the unit is 90 consecutive calendar days, as long as written notice was provided to landlord and PHA within the first 30 days the unit is vacant. The unit is vacant when no family members listed on the lease are residing in the unit.

**v. Interest in Unit**

The family must not own or have any interest in the unit. (See Form HUD-52646 regarding Reasonable Accommodation).

**e. Criminal Behavior**

**i. Fraud and Other Program Violation**

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

**ii. Crime by Household Members**

The members of the household may not engage in drug-related criminal activity, violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (see 24 CFR 982.553, 24 CFR 5.2005(b)(2), 24 CFR 5.2003).

**iii. Alcohol Abuse by Household Members**

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

**f. Receipt of Multiple Assistance**

An assisted family, or members of the family, may not receive Housing assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

**6 – I.F. 3 YEAR PENALTIES**

**PHA Policy**

Participants who violate certain Family Obligations may lead to termination as well as a 3-Year Penalty. (See Chapter 11 for more information).

## PART II. SUBSIDY STANDARDS AND VOUCHER ISSUANCE

### 6 – II.A. OVERVIEW [24 CFR 982.402]

The Housing Division must establish subsidy standards that define the number of bedrooms needed for families of different sizes and compositions. This section presents the policies used to determine the Family Unit Size (also known as the Voucher Size) that a particular family should receive, and the policies that govern making exceptions to those standards. The Housing Division is required to establish policies related to the issuance of voucher, the voucher term, and any extensions to the voucher term [24 CFR 982.54].

### 6 – II.B. DETERMINING FAMILY UNIT SIZE (BEDROOM SIZE) [24 CFR 982.402]

The term "Family Unit Size" has a very precise meaning for this program. The amount of assistance provided to the family is based on "Family Unit Size" and the number of bedrooms the family must have within the unit to meet HQS. Participants will be assigned the smallest bedroom size appropriate to their family size and composition. The family unit size does not dictate the size of the unit the family must lease, nor who within a household will share a bedroom/sleeping room. The occupancy standards in Paragraph 4-8 of HUD Handbook 7420.7 will be used as the standard for the minimum and maximum number of family members, except that a very small child (under 2 years old) may share a one-bedroom unit with a single parent. A room that could be used for sleeping can make the unit acceptable for HQS but may not justify the rent asked for the unit.

#### 1. HUD Subsidy Requirements [24 CFR 982.402]

The following HUD Requirements are used for determining family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the Housing Quality Standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.

- Any live-in aide (approved by the Housing Division to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size. (See PIH Notice 2014-25).
- Unless a live-in-aide resides with the family, the family unit size for any family consisting of a single person must be either a zero or one-bedroom unit, as determined under the PHA subsidy standards.

## **2. Housing Division Subsidy Policy**

HUD requires that the PHA must provide assistance to the family for the smallest family unit size possible. The family unit size standards established by HUD are included in the Housing Quality Standards Section Regulations (24 CFR 5.703(d)(5) state that no more than two persons will be required to share living/sleeping rooms. The PHA is motivated to help the greatest number of families within the established budget authority. Larger unit sizes increase the amount of subsidy paid on behalf of a tenant family, reducing the amount of funds available to help other families. Therefore, the PHA has adopted a strict policy for authorizing bedroom size according to the chart below. Families will not receive a larger voucher size unless there is an approved exception as defined in section 6 – II.C of this document.

- The Housing Division will assign one bedroom for each two persons within the household unless an exception has been granted.
- Single person families who are not disabled or who are not elderly will be allocated a 0-bedroom voucher.
- Single person families who fall under the definition of an Elderly or Disabled Family will be allocated a 1-bedroom voucher.
- Live-in-aides are not counted as family members nor is their income included in rent calculations, but they are counted when determining family unit size (also known as household size) and are required to have a bedroom of their own.

The Housing Division will reference the following chart when determining the appropriate voucher size for a family:

**FAMILY UNIT SIZE AUTHORIZED**

<b>Standard for the Issue of Housing Choice Vouchers</b>		
<b>HCV Bedroom Size</b>	<b>Minimum No. Of Persons in Household (HQs)</b>	<b>Maximum No. Of Persons in Household</b>
0- Bedroom	1	1
1-Bedroom	1	2
2-Bedroom	2	4
3-Bedroom	3	6
4-Bedroom	6	8
5-Bedroom	8	10
6-Bedroom	10	12

**6 – II.C. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.402(b)(8)]**

In determining family unit size for a particular family, The Housing Division may grant an exception to its established subsidy standards if the Housing Division determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. Exceptions cannot override HUD requirements as laid out in Chapter 6 – II.B.

**PHA Policy**

The Housing Division will assign two people per bedroom, regardless of age and/or relationship. The Housing Division will consider granting an exception for any of the reasons specified in the 24 CFR 982.402(b)(8): the age, sex, health, handicap, or relationship of family members or other personal circumstances.

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

The Housing Division will notify the family of its determination within 15 calendar days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing. (See Chapter 12 Part II for information on Informal Hearings).

## **6 – II.D. VOUCHERS ISSUANCE**

### **1. Overview**

When a family is selected from the waiting list (or as a special admission as described in chapter 4), or when a participant family wishes to move to another unit, the Housing Division issues a Housing Choice Voucher (form HUD-52646). This section describes the voucher issuance process for applicants. Voucher issuance associated with moves for active program participants will be discussed in Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size that the family qualifies for and includes both the date of the voucher issuance and date of expiration. The voucher contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the Housing Division has determined the family to be eligible for the program and that the Housing Division expects to have money available to subsidize the family if the family finds an approvable unit. The Housing Division does not have any liability to any party by the issuance of the voucher and the voucher does not give the family any right to participate in the Housing Choice Voucher Program.

A voucher can be issued to an applicant family only after the Housing Division has determined that the family is eligible for the program and the family has attended an oral Briefing.

### **2. Voucher Term [24 CFR 982.302, 982.303]**

Each applicant to receive assistance will be issued a Voucher, which is good for a 60-day period. To maintain the needed records to track lease up rates, the Voucher will expire at 5:00 P.M. on the 60th date of issuance.

### **3. Voucher Extensions [24 CFR 982.303]**

It is the responsibility of the applicant to report their progress in finding a unit to lease during the voucher term. If the applicant has not submitted a request for tenancy on a unit via the Request for Tenancy Approval form within 30 days, the applicant should report to the Housing Division. The Housing Division will evaluate any issues the tenant is facing and offer additional assistance in the family's housing search. Applicants should continue to stay in contact with the Housing Division regarding their progress.

**a. Extension 1**

Upon written request by the family, the PHA will extend this period for an additional 30 days making the Voucher active for a total of 90 days. The family's written request should explain any issues the family has faced in finding a unit so that the staff can evaluate their outreach program to landlords. Assistance to the applicant can be offered if they are having problems finding a unit. The staff will explain the best methods to locate a unit and explain how the applicant can increase their chance of a successful hunt.

**b. Extension 2 (Limited)**

To make the program accessible to a family member with disabilities, upon written request the PHA, will extend the voucher for an additional 30 days over a normal extension making the voucher active for a total of 120 days.

**c. Portability Extensions**

In the case of portability, the extension may also be extended up to 120 days if the tenant has requested the extension in writing or the receiving PHA notifies this office of a need to extend the voucher.

All requests for extensions must be submitted to the Housing Division prior to the expiration of the voucher.

**4. Request for Tenancy Approval (RFTA) form [24 CFR 982.302, Form HUD-52517]**

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a unit is found, the owner and the family must complete the Request for Tenancy Approval form that's provided to the family at voucher issuance and return the form to the Housing Division. Only one RFTA may be issued to a family at a time.

**a. Required Owner Information**

- The RFTA contains important information about the rental unit selected by the family including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, proposed rent and the requested beginning date of the lease.
- Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the household
- For units constructed prior to January 1, 1978, owners must either:

1. Certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or
2. Attach a lead-based paint disclosure statement.

- Finally, owners of projects with more than 4 units must provide rent amounts for recently leased comparable units within the premises for purposes of the PHA's determining whether the requested rent is reasonable

**b. Tenant Screening [24 CFR 982.307(a)]**

The Housing Division encourages Landlords to screen all potential residents. Landlords need not accept Families that have a poor rental history, a history of allowing persons not listed on the lease to live in the unit, a history of damaging units or vacating units without giving proper notice.

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy [24 CFR 982.307]. See Chapter 3 for information on the Housing Division's policies with regard to screening applicant families for the program.

At or before the Housing Division's approval of tenancy the Housing Division must inform the owner that screening and selection for tenancy is the responsibility of the owner. The Housing Division must also inform the owner of their rights and obligations under the Violence Against Women Act of 2013 (VAWA) [24 CFR 982.2005].

**c. Information to be Provided to the Prospective Owners [24 CFR 982.307(b)]**

HUD requires that the PHA give the landlord/agent:

1. The family's current address (as shown in the PHA records); and
2. The name and address (if known to the PHA) of the family's landlord at their current and prior address.

This information will be provided on the Request for Tenancy Approval (RFTA) form.

**d. Security Deposits [24 CFR 982.313]**

The Tenant is responsible for the payment of security deposits. Owners may collect a security deposit but are not required to, and the amounts collected may vary. Usually, the local open market security deposits do not exceed one month's contract rent, however, the amount requested cannot be higher than the amount requested by the landlord/agent for unassisted (open market) units. (See Chapter 8 – I.C. for more information on Security Deposits)

## **5. Suspensions of Voucher Term [24 CFR 982.303(c)]**

The PHA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for Housing Division approval of the tenancy until the date the Housing Division notifies the family in writing whether the request has been approved or denied.

## **6. Expiration of Voucher Term**

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive housing assistance, the family must reapply.

See Chapter 8 – I.B. for information on approval of tenancy.

## **7. Monitoring Participant Characteristics**

The Housing Administrator will monitor and review the characteristics of applicant families to ensure that income levels of participants and applicants are in conformance with current HUD regulations, and that there is sufficient federal funding available to pay for all contracts before a new contract is entered into.

## **CHAPTER 7 – INSPECTIONS AND RENT REASONABLENESS**

### **PART I. INSPECTIONS [24 CFR 982 SUBPART I, 24 CFR 5.705]**

#### **7 – I.A. INSPECTION STANDARDS**

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet the codes under the National Standards for the Physical Inspection of Real Estate (NSPIRE). The Housing Quality Standards (HQS) has been updated to reflect the new NSPIRE standards. The terms NSPIRE and HQS are synonymous and may be used interchangeably throughout this document. HQS are the HUD minimum quality standards for tenant-based programs. HQS unit compliance is required both at initial occupancy and during the term of the lease. HQS applies to the building and premises, including all common areas, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract. The PHA must also inspect each unit under contract at least biennially.

This chapter describes the PHA's procedures for performing HQS inspections, and PHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of noncompliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and PHA requirements.

HUD's performance and acceptability standards for HCV-assisted housing are provided in:

- 24 CFR 982.401;
- 24 CFR 5.705
- 88 FR 40832 National Standards for the Physical Inspection of Real Estate: Inspection Standards;
- PIH Notice 2023-28 – Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) Administrative Procedures for the Housing Choice Voucher (HCV) Programs;
- H.R.7981 - Public and Federally Assisted Housing Fire Safety Act of 2022
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

## 7 – I.B. ADDITIONAL PHA INSPECTION REQUIREMENTS

The Housing Division may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS.

### 1. Utilities and Inspections

To verify operating conditions of stove, refrigerator, water heater, heating and cooling equipment the utilities must be turned on for the unit to meet HQS. Utilities must remain on for the landlord / agent to receive a HAP check and for the tenant, if eligible, to receive a utility reimbursement check. When a utility is to be paid by the tenant, there must be a separate meter for that utility that serves only the tenant's unit. If the tenant is not responsible for paying a utility or the service is not separately metered, the landlord / agent will be responsible for the full payment of that utility unless conditions are clearly stated in the lease.

#### i. Ratio Utility Billing System (RUBS)

##### PHA Policy

Ratio Utility Billing System (RUBS) is an alternative option for properties who wish to assign utility responsibility to tenants but do not have separate meters installed and the installation of such meters is not financial reasonable. If a RUBS system is used, the landlord must first receive approval by the Housing Division prior to the initializing of the RUBS System with active Housing Tenants on the property. The landlord must submit a copy of the RUBS contract as well as proof to the Housing Division demonstrating that all Tenants, HCV and Non-HCV, will be treated the same in the way in which those utilities will be charged to the Tenant under the RUBS system. Upon approval of the RUBS contract, the Housing Division will notify the owner in writing.

Once the RUBS system is approved by the Housing Division, the owner must note the use of the RUBS on the RFTA and the initial lease for all new admissions to the HCV program. Properties who wish to change utility responsibility for tenants who are already in active HAP contracts must wait until the next Annual Reexamination for changes to go into effect. In addition, owners must submit a notice in writing to the Housing Division for each client prior to the Annual Reexamination and must submit a new lease which specifies the change in the tenant responsible utilities and which utilities are charged under the RUBS contract. The Housing Division must have documentation in writing on every client individually before making any changes to an existing HAP contract. As a change in utility responsibility from Owner to Tenant supplied utilities within a RUBS may increase the tenant's portion, a separate Rent Increase will not be approved until the next Annual Reexamination following the change to RUBS.

## 2. Yard Maintenance

If the tenant is responsible for yard maintenance, the landlord/agent will turn over the property at move-in with the yard free of excess trash, tall grass or weeds.

## 7 – I.C. INSPECTION PROCESS

### 1. Overview

This section will discuss the types of inspections the Housing Division is required to complete to confirm that units receiving Federal Assistance meet HUD compliance requirements.

There are four types of inspections the PHA will perform:

- i. Initial/Move-In: The Housing Division conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.
- ii. Annual/Biennial: The Housing Division must inspect each unit at least once every 24 months to confirm that the unit still meets HQS standards. The inspection may be conducted in conjunction with the family's annual reexamination, but also may be conducted separately.
- iii. Special/Complaint: At request of owner, family or an agency or third-party.
- iv. Quality Control: This is a percentage of inspections performed on units previously inspected by the Housing Inspector.

### 2. Types of Inspections

#### a. Initial Inspections [24 CFR 982.305, 24 CFR 982.405]

##### i. RFTA Submission and Inspection Scheduling

When a family has found a unit that they wish to rent under the HCV program, the owner and family will complete the Request for Tenancy Approval (RFTA) form and submit this form to the Housing Division. All initial inspections of units shall be conducted within 15 business days after the submission of the RFTA form. This fifteen-day clock is suspended during any time when the unit is not available for inspection. The RFTA contains a field where the owner should indicate the date when the unit is expected to be available for inspection.

##### ii. Compliance Standards

The Housing Division is required to complete an inspection on the dwelling unit to determine compliance with HQS prior to the execution of a Housing Assistance Payments (HAP) contract. Units must continue to meet HQS as long as the family continues to receive housing assistance in the assisted unit.

**iii. Results and Reinspections**

Upon completion of the initial inspection, a copy of the inspection report will be provided to the owner and family via the Assistance Connect Portal, email, facsimile, or mail. Should the Housing Division's Inspector determine that an HQS violation exists, the inspection report will indicate the deficiencies required to be corrected in order to bring the unit into HQS compliance. 24 CFR 982.404 requires that all deficiencies be corrected and verified by the inspector within 30 days from the date of inspection. It is the owner's responsibility for scheduling a reinspection with the Housing Division to confirm repairs. Should deficiencies not be corrected within the 30-day timeframe, the RFTA will be voided and the family issued another RFTA to search for another suitable unit.

**b. Annual / Biennial HQS Inspections [24 CFR 982.405]**

**i. Compliance Requirement**

Each unit shall be inspected and/or re-inspected for HQS at least once every 24 months. The inspection must occur and the unit must pass before the contract anniversary date. The PHA shall maintain a list of contract anniversary dates with which to schedule annual inspection dates. A written notice will be provided to both landlord/agent and tenant at least 60 days in advance of the contract anniversary of the date and time for the inspection.

**ii. Allowing Inspections [24 CFR 982.551 (d)]**

The family must allow the PHA to inspect the unit at reasonable times and after a reasonable notice. Failure to allow inspection, including missing inspection appointments can result in the rent being abated or the HAP terminated and the family's assistance being terminated for breach of family obligations. (See Chapter 11 for more information on Terminations.)

**iii. Remote Video Inspection (RVIs) Protocol [PIH Notice 2020-31]**

The Housing Division may, at its discretion, conduct inspections by HUD's approved remote video inspection (RVIs) protocol. See 7 – I.D. for information on remove video inspections.

**iv. No Shows / No Entry [24 CFR 982.551 (d)]**

**PHA Policy**

If the family misses two inspection appointments and has not contacted the Housing Division to reschedule prior to last day of the family's contract expiration date, the PHA will consider the family to have violated a family obligation and their assistance will be terminated in accordance with the termination procedures in the plan. No Housing Assistance Payments can be made on a unit that has not been

inspected and confirmed compliance with HQS. (See Chapter 11 for information on Terminations.)

**v. Re-inspection Requirements**

Upon completion of the inspection, a copy of the inspection report will be provided to the owner and family via the Assistance Connect Portal, email, facsimile, or mail. Should the Housing Division's Inspector determine that an HQS violation exists, the inspection report will indicate the deficiencies required to be corrected in order to bring the unit into HQS compliance. HUD requires that all life-threatening deficiencies be corrected and verified by the inspector within 24 hours and all non-life-threatening deficiencies within 30 days from the date of inspection.

**c. Special/Complaint Inspections [24 CFR 982.405(G)]**

**i. Compliance Requirements**

The Housing Division will conduct a special inspection if the owner, family, or another source reports HQS violation in the unit. If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification. In the event of extraordinary circumstances, such as if a unit is within a Presidentially declared disaster area, HUD may waive the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.

**PHA Policy**

The owner and family are required to provide maintenance request in writing to the other party prior to requesting a special inspection. Excluding life threatening conditions, a reasonable amount of time must be provided to respond to, and complete the repairs. A reasonable amount of time is defined by the Housing Division as 30 calendar days. Requests for special inspections need to be made in writing explaining the reason for the request and include a copy of the written maintenance request submitted to the other party. During a special / complaint inspection, the Housing Division generally will inspect only those deficiencies that were reported. However, the inspector will record any additional Life Threatening HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual / biennial inspection has been scheduled or is due within 60 days of the date the special / complain inspection is scheduled, the Housing Division may elect to conduct a full annual / biennial inspection.

The Housing Division may conduct special inspections by HUD's approved remote video inspection (RVIs) protocol. (PIH Notice 2020-31).

**ii. Re-inspection Requirements**

Upon completion of the inspection, a copy of the inspection report will be provided to the owner and family via the Assistance Connect Portal, email, facsimile, or mail. Should the Housing Division's Inspector determine that an HQS violation exists, the inspection report will indicate the deficiencies required to be corrected in order to bring the unit into HQS compliance. HUD requires that all emergency / life threatening deficiencies be corrected and verified by the inspector within 24 hours and all non-life-threatening deficiencies within 30 days from the date of inspection.

Owners, their staff, or the tenant may submit proof of repairs to the Housing Department in lieu of a physical inspection. All submissions must include the full tenants name and full unit address.

**d. Quality Control Inspections [24 CFR 982.405(b), 24 CFR 985.3(e)]**

**i. Compliance Requirements**

HUD requires a Housing Division supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods. In addition, 24 CFR 983.103(e), requires that Quality Control Inspections include a representative sample of both tenant-based (HCV) and project-based (PBV) units.

**ii. Notification**

A written notice will be provided to both landlord/agent and tenant at least 15 days prior to the date of the scheduled inspection.

**iii. Re-inspection Requirements**

Upon completion of the inspection, a copy of the inspection report will be provided to the owner and family via the Assistance Connect Portal, email, facsimile, or mail. Should the Housing Division's Quality Control Inspector determine that an HQS violation exists, the inspection report will indicate the deficiencies required to be corrected in order to bring the unit into HQS compliance. HUD requires that all emergency / life threatening deficiencies be corrected and verified by the inspector within 24 hours and all non-life-threatening deficiencies within 30 days from the date of inspection.

## **7 – I.D. REMOTE VIDEO INSPECTIONS (RVIS) [PIH NOTICE 2020-31]**

### **a. Overview**

PIH Notice 2020-31 provides guidance on conducting Housing Quality Standards (HQS) inspections using Remote Video Inspections (RVIs). In RVIs, an HQS inspector performs an HQS inspection from a remote location using video streaming technology via a person at the inspection site who serves as a proxy. The proxy follows the direction of the HQS inspector throughout the entire inspection process.

During the RVI, the Housing Division remains responsible for the conduct of the inspection, and any judgments made about whether a condition is a violation. There may be some circumstances where the application of technology provides insufficient information or evidence to the Housing Division to allow it to make an appropriate determination.

### **b. Performing the RVI Inspection**

- The Housing Division will ensure adequate privacy safeguards for the protection of Personally Identifiable Information (PII). The Housing Division's HQS inspector can be at the Housing Division's office or other remote location, using equipment that provides PII safeguards.
- The inspector will choose a proxy for the inspection. The proxy can be the landlord, property representative, tenant, or any adult associated with this tenancy. The selection of the proxy is a mutual decision between the Housing Division, landlord, and tenant.
- If no proxy can be established to complete the RVI inspection, an in-person inspection will be completed.
- Once the inspection is scheduled, the HQS inspector uses the Housing Division's designated streaming web-based platform to contact the proxy. The HQS inspector uses the same electronic inspection form the Housing Division currently uses to record any deficiencies.

### **PHA Policy**

1. Prior to the scheduled inspection the proxy should have following equipment ready:
  - Distance measuring device, i.e., a tape measure;
  - Lighting device, i.e., a flashlight;
  - Outlet tester to test the proper wiring of electrical outlets;
  - Means to test smoke and carbon monoxide detectors;
  - Temperature device for displaying the internal unit temperature;

- Smartphone or tablet is fully charged with a reliable internet connection. Wi-Fi has the best streaming reliability and quality, but 4G or better cellular data service supports video streaming. The device must be equipped with a high camera resolution (megapixels, sensors, and pixel size) in order to show details such as paint chips or broken glass.

2. The proxy will be informed that the remote video inspection will be recorded and saved as a part of the unit inspection file.

**c. Post-inspection**

- After completion of the RVI inspection, the inspector will save to a computer video file for the specific unit. All regular notice requirements for pass or failed inspections will be followed per this HCV Administrative Plan and HQS SOPs. Specific procedures for completing the RVI inspections are outlined in an RVI Standard Operating Procedure in compliance with PIH Notice 2020-31.

**7 – I.E. DETERMINING RESPONSIBILITY [24 CFR 982.404]**

**1. Family Responsibilities**

The family is responsible for breach of the HQS that is caused by the following:

- Utilities that are required to be paid by the tenant are not in service;
- Appliances that are required to be provided by the tenant which are absent or not working; and
- Damage to the unit or premises beyond normal wear and tear. “Normal wear and tear” are defined as items which could not be charged against the tenant’s security deposit under state law or court practice and are often the result of a tenant’s abuse or negligence.

**2. Owner Responsibilities**

The owner is responsible for all HQS violations not listed as a family responsibility above. However, if the family’s actions constitute serious or repeated lease violations the owner may take legal action to evict the family.

The Housing Division does not enforce the lease agreement between the family and the owner through the enforcement of HQS, however, a family’s living habits may cause damage to the unit and result in HQS violations that are the owner’s responsibility to repair. For example, unless otherwise stated in the lease, the owner of a unit in a multifamily property is responsible for the treatment of infestations. Owners are responsible for all lease enforcement activities and any legal actions taken as a result of serious and / or repeated violations of the lease agreement. Lease violations and eviction paperwork must be submitted to the Housing Division at the time of occurrence.

## **7 – I.F. EXTENSIONS [24 CFR 982.404, PIH Notice 2023-28]**

### **1. Life Threatening Conditions**

For conditions that are life-threatening, the Housing Division is not able to grant an extension to the 24-hour corrective action period.

### **2. Non-Life-Threatening Conditions**

For conditions that are not life-threatening, the Housing Division may grant an exception to the required time frames for correcting the violation, if the Housing Division determines that an extension is appropriate.

#### **PHA Policy**

Extensions will be granted in cases where the Housing Division has determined that the owner has made a good faith effort to correct the deficiencies and is unable to do so for reasons beyond the owner's control. Requests for extensions must be made in writing and be submitted prior to the expiration of the 30-day time line.

Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

## **7 – I.G. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL (EIBLL) [24 CFR 35.1225; PIH Notice 2017-13]**

If the Housing Division is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit built prior to January 1, 1978 has been identified as having an environmental intervention blood lead level, the Housing Division must complete a risk assessment of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner. Within 30 days after receiving the risk assessment report from the Housing Division, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit

is in violation of HQS and the Housing Division will take action in accordance with Chapter 7 – I.I of this document.

## **7 – I.H. VIOLATION OF HQS SPACE STANDARDS [24 CFR 5.703(d)(5), 24 CFR 982.403]**

### **1. Space Standards Requirements**

A dwelling unit must provide adequate space and security for the family. Adequate Space is defined in 24 CFR 5.703(d)(5) as having at least one bedroom or living / sleeping room for each two persons. A unit that does not meet this HQS space standard is defined as overcrowded.

If the Housing Division determines that a unit is overcrowded because of an increase in family size or a change in family composition, the Housing Division must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the Housing Division must terminate the HAP contract in accordance with its terms

#### **PHA Policy**

Not all enclosed areas can be counted as bedrooms. To be counted as a bedroom, the room must meet HQS, and the room must provide a private area where family members may sleep. If the only method to enter one area is to pass through another room, that space may be counted as a living / sleeping area but will not be counted as a bedroom. The kitchen and bathroom will not be counted as sleeping rooms. The living room may be counted as a sleeping room.

Units must have the minimum number of bedrooms / sleeping rooms required for that family's size and composition. Participants may lease a unit with less bedrooms than listed on their voucher. However, the unit must have one bedroom or sleeping room for each two persons.

<b>HQS Standard for acceptability of Units Size</b>	
<b>Unit Size</b>	<b>Maximum Occupancy – Assumes Living Room is used as a sleeping room</b>
0- bedroom	1
1-bedroom	4
2-bedroom	6
3-bedroom	8
4-bedroom	10
5-bedroom	12
6-bedroom	14

## 7 – I.I. COMPLIANCE ENFORCEMENT

### 1. Landlord / Agent Failure to Maintain [24 CFR 982.404]

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

#### a. HAP Abatement [24 CFR 985.3(f), 982.404(d)]

Failure by the landlord/agent (landlord) to maintain the unit to HQS can result in abatement, termination, suspension, or reduction of Housing Assistance Payments. Non-life-threatening deficiencies must be corrected within 30 days. If a life threatening item is discovered, the landlord will be given 24 hours to correct the defect. If the defect is not corrected within the 24 hours the rent will be abated until corrected. The 24-hour period starts from the point of notification. Notification may be in person to the landlord at the site, or if the landlord is not otherwise available, by phone, or in writing. Written notice will be uploaded to the landlord's assistance connect account. A 24-hour processing period will be added to the time to allow for online delivery. When a landlord is not signed up for assistance connect the written notice will be mailed by certified mail only. It is assumed that any written notice will be delivered two postal service work days after the mailing of a letter, therefore, 48 hours will be added to the time to allow for delivery. If an owner fails to correct HQS deficiencies by the time specified by the Housing Division, HUD requires the Housing Division to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extensions). No retroactive payments will be made to the owner for the period of time the rent was abated [24 CFR 982.4(b)]. Owner rents are not abated as a result of HQS failures that are the family's responsibility. (However, the PHA may terminate assistance for a breach caused by the family.)

During any abatement period, the family continues to be responsible for their share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction. The maximum length of time that a HAP contract may be abated is 60 days. If the owner fails to make the repairs within 60 days of the notice of abatement, the PHA must terminate the HAP contract. The family must be issued a voucher at least 30 days prior to the HAP termination date.

If the owner completes corrections and notifies the Housing Division before the termination date of the HAP contract, the Housing Division may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

**b. HAP Contract Termination**

The PHA may 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 will be sent written notice of pending termination at least 30 days in advance. Should the unit fail and Housing Assistance Payments be abated for owner non-compliance with HQS, the PHA may issue a voucher to the family to move, provided the family is eligible (not in violation of the terms of assistance, including HQS responsibilities). The family should be reminded of its responsibility to the owner to give notice of intent to move, and must continue to pay its portion of the rent as long as the family remains in the unit.

Inspections must pass prior to the last day of the tenant's anniversary month. However, if the owner completes corrections and notifies the Housing Division before the termination date of the HAP contract, the Housing Division may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

**2. Enforcement of Family Compliance [24 CFR 982.551]**

Families are responsible for correcting any HQS violations listed in Chapter 7 – I.E(a) of this document. If the family fails to correct a violation within the period allowed by the Housing Division (and any extensions), the Housing Division will terminate the family's assistance, according to the policies described in Chapter 11. If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

**3. Utility Violations**

The PHA may abate and terminate assistance if the utilities are not kept connected, as the unit will no longer meet HQS if any utility is not connected. Landlord/agents are responsible at all times for the unit meeting HQS and should check to be sure that families in their units have utilities turned on at all times. Participants can be terminated from the program and lose their assistance for not keeping their utilities on [24 CFR 982.404]. Failing to keep tenant supplied utilities on or to provide and maintain the tenant supplied appliances is a breach of the Family Obligations and a violation of HQS. Tenants must correct utility shut offs within 24 hours. Tenants must correct appliance defects within 30 days. Landlord/agents can be disqualified from further Housing Choice Voucher participation for failure to keep utilities that are their responsibility connected or for charging the tenant for those utilities. Charging for any amount of the utilities is considered a side payment and a violation of the HAP contract.

## **7 – I.J. SPECIAL HOUSING TYPES [24 CFR 982.601]**

### **1. Overview**

HUD regulations allow, but do not generally require, the Housing Division to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include Single Room Occupancy (SRO) housing, Congregate housing, Group home, Shared housing, Manufactured home space (where the family owns the manufactured home and leases only the space), Cooperative housing and Homeownership option. The regulations do require the Housing Division to permit the 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.

### **2. Administration of Special Housing**

The City of Wichita Falls has no Moderate Rehabilitation units, Group Quarters other than military barracks or any other type of shared housing units which are considered Special Housing. The local area has a large number of available and unoccupied “Granny Flats”, “mother-in-law units”, and garage apartments which reduce the local need for shared housing. Special Housing Types will not be permitted except as required as a reasonable accommodation for a person with a disability. All regulations under 24 CFR 982 Subpart M apply.

### **3. Manufactured Home Pad Rentals**

This PHA chooses not to implement the provision that Housing Choice Voucher assistance can be used to rent a manufactured home site, while the “tenant” owns the home. Since the applicant is technically a homeowner/landlord/agent, this PHA chooses not to make HCV assistance available because the applicant may not have the desire, savings, or motivation to bring the manufactured housing unit up to HQS. The PHA will continue to allow HCV tenants to rent manufactured homes as long as the home and pad space is considered together in the gross rent.

### **4. HOME Tenant Based Rental Assistance (TBRA)**

The PHA does not have any TBRA units under the HOME program. The City has not ruled out the use of HOME funds for this type of assistance.

## **7 – I.K. OPTIONAL INSPECTION PROVISIONS [24 CFR 982.601]**

### **1. Non-Life Threatening Deficiency Option**

Per 24 CFR 982.405(j) a PHA may elect to approve an assisted tenancy, execute the HAP contract, and begin making assistance payments for a unit that failed the initial HQS

inspection, provided that the unit has no life-threatening deficiencies. A PHA that implements this option (NLT option) may apply the option to all the PHA's initial inspections or may limit the use of the option to certain units. The PHA's Administrative Plan must specify the circumstances under which the PHA will exercise the NLT option. If the PHA has established, and the unit is covered by, both the NLT option and the alternative inspections option for the initial HQS inspection further regulations found at 24 CFR 982.406(f) would apply.

**PHA Policy**

The Housing Division has not elected to apply the Non-Life Threatening Deficiency Option at this time.

**2. Alternative Inspection Provision**

Per 24 CFR 982.406, a PHA may adopt the Alternative Inspection Provision. Under this provision, a PHA may generally comply with the inspection requirements in 24 CFR 982.405(a) and (b) by relying on an alternative inspection (i.e., an inspection conducted for another housing program) only if the PHA is able to obtain the results of the alternative inspection. The PHA may implement the use of alternative inspections for both initial and periodic inspections or may limit the use of alternative inspections to either initial or periodic inspections. The PHA may limit the use of alternative inspections to certain units, as provided in the PHA's Administrative Plan.

Should the PHA adopt the Alternative Inspection Provision, the PHA's Administrative plan must identify in the PHA Administrative Plan all the optional policies identified in § 982.54(d)(21)(iii).

**PHA Policy**

The Housing Division has not elected to apply the Alternative Inspection Provision at this time.

**PART II. RENT REASONABILITY [24 CFR 982.507]**

**7 – II.A. OVERVIEW**

No unit will be leased under the Housing Choice Voucher program that is not rent reasonable.

The Housing Division must determine rent reasonableness:

- At initial lease up;
- Before any increase in the rent to the owner;

- If there is a 10 percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect 1 year before the contract anniversary;
- If directed by HUD.

At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the PHA.

## **7 – II.B. FACTORS OF RENT REASONABLENESS**

The PHA must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make this determination, the PHA must consider the location, quality, size, unit type, and age of the contract unit; and any amenities, housing services, maintenance, and utilities to be provided by the owner in accordance with the lease.

## **7 – II.C. LIHTC / HOME Program [HCV Guidebook - Rent Reasonableness - Section 2.6]**

### **1. Rent Reasonableness Exceptions**

For a unit receiving Low-Income Housing Tax Credits (LIHTCs) pursuant to Section 42 of the Internal Revenue Code of 1986 or receiving assistance under HUD's HOME Program (for which the regulations are found in 24 CFR part 92), The PHA is not required to compare rents for these units with unassisted local rents, if the rent to owner does not exceed the rent charged for families who are not participants in the voucher program. The reasonable rent is the lower of the rent charged to such unassisted families or the applicable payment standard.

### **2. LIHTC Rent Reasonableness Required**

The Housing Division will collect rent data from all properties which participate in the HCV program, including those that are receiving LIHTCs. If the rent requested by the owner of an LIHTC property exceeds the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. The rent shall not exceed the lesser of the Reasonable rent as determined pursuant to a rent comparability study or the payment standard established by the PHA for the unit (voucher) size involved.

## **7 – II.D. MEASURING RENT REASONABLENESS**

### **1. System Database.**

The Housing Division maintains a computer database of unassisted units in the Wichita Falls area. The database has information on the 9 factors HUD uses for rent reasonableness and is compiled from local realtors, internet sites, newspapers, existing owners, formerly assisted units, Census data, data from the Sheppard Air Force Base Off-base Housing

Office, and from the North Texas Rental Property Owners Association. The program looks at the data entered for the proposed unit and compares it with 3 unassisted units that have data stored in the system and prints a report that is placed in the tenant's file.

## **2. Measuring Prior to Lease-Up.**

### **a. Determining Rent Reasonable**

When the RFTA is first received in the office, a staff member will check the location, proposed rent, type of structure, number of bedrooms, and utilities for type and who pays each. The proposed rent is then compared with the data on units of the same bedroom size and type in the census tract or general area where the unit is located. The staff member will tentatively determine if the rent is reasonable. After the inspector returns from the inspection and has reviewed the inspection form and our rent reasonable worksheets, the staff will then decide if the current information justifies the initial rent reasonable determination. If the inspection report does not support the information provided on the RFTA (for example a lesser number of bedrooms or incorrect utility information), the owner will be contacted and a new rent negotiated based on the data found during the inspection.

### **b. Rent Reasonable Adjustment Factors**

The proposed unit will be compared to the other unassisted units in the database and adjustments made to increase or lower the proposed rent based on what the comparable unassisted units have that the proposed unit does or does not offer. The database is designed to award points based on location, structure type, size, age, quality, amenities, facilities, utilities provided and services. Points are more heavily weighted on location and quality to incorporate those factors in the comparable data. The system generated rent reasonable report will be reviewed and the results used to negotiate any rent changes with the Landlord. Except for LIHTC units as described in 7 – II.C. of this document, as long as at least one comparable unassisted unit is equal to or more than the proposed rent, the rent will be deemed reasonable.

If the proposed rent is determined to be too high and does not meet the rent reasonableness limitation, the PHA will engage in negotiations with the owner and attempt to reduce the contract rent or to include some or all of the utilities in the contract rent.

## **3. Families That Rent in Place**

Rent Reasonableness will be checked at the family's yearly recertification. For currently assisted units, comparing the condition of last year's inspection against the current condition can also be a major factor in evaluating a rent increase on existing units. The unit is still compared to unassisted units.

**a. Rent Increase Requests**

**PHA Policy**

When a family re-certifies, the owner may request an increase in the rent or other changes in the payment arrangements on the utilities that will result in a higher rent to the tenant.

In order to process Rent Increase Requests, the Landlord must submit a completed Rent Increase Request form to the Housing Division at least 60 days prior to the expiration of the family's HAP contract. The Housing Division will process only one rent increase in a 12-month period. Approved rent increases will go into effect on the first date the HAP contract renews.

When requesting changes in utility arrangements, the owner must submit the request to the Housing Division in writing prior to the renewal of the HAP contract along with a copy of the new lease verifying the change in utility responsibilities.

**b. Approving Rent Increase Requests**

For rent increase requests, the Housing Division may request owners to provide information about the rents charged for other units on the premises. In evaluating proposed rents in comparison to other units on the premises, the Housing Division will consider unit size and length of tenancy in the other units. The Housing Division will also complete a Rent Reasonable study for each Rent Increase Request, consider the payment standard, and consider the tenant's individual income circumstances.

**4. Owner certification of rents charged for other units.**

By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The PHA may at any time request information from the owner regarding rents charged to other units on the premises or elsewhere. Upon request, the owner must provide such information to the PHA.

## CHAPTER 8 –LEASING & OWNER INFORMATION

### PART I. GENERAL LEASING PROCEDURES

#### 8 – I.A. OVERVIEW [24 CFR 982.305]

This chapter covers the lease-up process after the Request for Tenancy Approval (RFTA) has been submitted to the execution of the HAP contract.

As soon as a RFTA is filled out by the owner and tenant and is submitted to the Housing Division, the Housing Division will begin the Approval of Tenancy process.

#### 8 – I.B. APPROVAL OF TENANCY REQUIREMENTS [24 CFR 982.305]

In order for the Housing Division to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the Housing Division must ensure that the following program requirements have been met:

1. The unit is eligible;
2. The unit is inspected and passes HQS;
3. The lease offered by the owner is approvable and includes the required Tenancy Addendum;
4. The rent to be charged by the owner for the unit is reasonable;
5. At initial occupancy of a unit (New Admissions / Unit Transfers), the Gross Rent for the unit does not exceed the families Maximum Initial Rent Burden (also known as Maximum Voucher Amount); and
6. The owner is an eligible owner, approvable by the Housing Division, with no conflicts of interest.

#### 8 – I.C. REQUIREMENTS DESCRIBED

##### 1. The Unit Must be Eligible [24 CFR 982.352]

###### a. Eligible unit Types

Generally, the family may choose any available rental unit on the market in the Housing Division's jurisdiction. This may include the dwelling unit where the family is already residing. Eligible unit types generally include those that do not fall under Special Housing Types (See Chapter 7 – I.J. for more information).

**b. Ineligible unit Types (Except by Reasonable Accommodation) [24 CFR 982 Subpart M]**

The following unit types do not qualify to receive assistance under the Wichita Falls HCV program except as a reasonable accommodation for a family with disabilities:

- Single Room Occupancy (SRO) housing;
- Congregate housing;
- Group Homes;
- Shared housing;
- Manufactured Home Space Rentals;
- Cooperative housing;
- Homeownership option.

(See 7 – I.J. of this plan for more information on Special Housing Types)

**c. Ineligible [24 CFR 982.352]**

The following are **ineligible** and cannot be approved for HCV assistance:

- A Public or Indian housing unit;
- A unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f);
- Nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services;
- College or other school dormitories;
- Units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions;
- A unit occupied by its owner or by a person with any interest in the unit.

**d. Duplicate Assistance [24 CFR 982.352]**

A family may not receive the benefit of tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian Housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;

- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities;
- Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, “housing subsidy” does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

**2. Unit Must Meet HQS [24 CFR 982.305]**

The PHA must determine that the rental unit selected by the family is in decent, safe, and sanitary condition before approving the tenancy. The PHA will make this determination by completing an inspection. The PHA must complete the inspection within 15 days after a RFTA has been submitted to the Housing Division. The 15-day clock is suspended during any period when the unit is not available for inspection. (See Chapter 7 for more information regarding Inspections.)

**3. Rent Must be Reasonable [24 CFR 982.305]**

Prior to tenancy approval, the PHA must make a rent reasonableness determination by comparing the rent being charged by the owner to rents for other comparable unassisted units. (See Chapter 7 for more information on Rent Reasonableness).

**4. Maximum Initial Rent Burden [24 CFR 982.305]**

At initial occupancy of a unit (new admissions and unit transfers), if the gross rent of the unit exceeds the applicable payment standard for the family, the PHA must ensure that the family share does not exceed 40 percent of the family’s monthly adjusted income. This cap is referred to as the maximum initial rent burden (also known as the Maximum Voucher Amount).

If the total family share exceeds 40 percent of the family’s monthly adjusted income, the PHA cannot approve the tenancy.

## 5. Lease must be Acceptable [24 CFR 982.308]

### a. Tenant or Landlord / Agent Legal Capacity

The family and the owner must execute a written lease agreement for the assisted unit. The written lease is a contract between the tenant family and the owner. The Housing Division is not a party to the lease.

The Tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner. The Tenant and owner must have the legal capacity to enter into a lease under state or local law.

#### i. Tenant Legal Capacity

##### PHA Policy

In Verlink Marshall et al vs. Housing Authority of the City of Taylor, the District Court held that the Housing Authority's practice of requiring the head of household to be either majority age or an emancipated minor did not violate the Housing Act of 1937. Therefore, this PHA elects to define "legal capacity" as an individual or head of household, 18 years of age or older, or an emancipated minor. Emancipated minors will be required to submit copies of the court papers to verify their status.

#### ii. Landlord/Agent/Owner Legal Capacity

##### PHA Policy

An owner must establish that they have a legal right to lease the requested unit through the recorded deed records, appraisal, bill of sale, or property tax notice. An agent or executor of an estate must provide documentation of their legal appointment to act on behalf of the landlord/owner.

When a landlord/agent enters into a HAP contract they are certifying that they have the legal capacity to rent the unit. Entering into a HAP contract without the legal capacity to do so nullifies and voids all contracts and leases, and is subject to prosecution for fraud to recover any funds paid as a result of the nullified lease.

### b. Lease Requirements [24 CFR 982.308]

The lease offered by the owner must be acceptable and must include the required Tenancy Addendum.

The lease must include the following information:

- Names of the owner and tenant;

- The unit rented (address, apartment number, and any other information needed to identify the contract unit);
- Term of the lease including initial term and any provision for renewal;
- Amount of monthly rent to owner; and
- A specification of what utilities and appliances are to be supplied by the owner and what utilities and appliances are to be supplied by the family.

**c. Acceptable Lease Formats [24 CFR 982.308]**

The lease is a legally binding document between the landlord and the HCV participant. The landlord must use the same standard lease form they use with their unassisted tenants. The lease is acceptable when it includes the HUD Tenancy Addendum and the required lead-based hazard disclosure information required in 24 CFR 35.92(b). The PHA no longer approves a lease, however, the lease must be acceptable. A number of office supply stores have leases that can serve this purpose. (See Chapter 13 – III.A(3) for information about the Tenancy Addendum)

**d. Term of Assisted Tenancy [24 CFR 982.309]**

The initial lease term must be for at least one year. The initial lease term is also stated in the HAP contract. During the initial lease term, the owner may not raise the rent to the owner (See Chapter 8 – I.F. for information on Changes in Rent). If the lease terminates, the HAP contract terminates with it.

**e. Separate Non-lease Agreements between Owner and Tenant [Form HUD-52641]**

The part of the rent to owner which is paid by the tenant may not be more than the rent to the owner minus the PHA Housing Assistance Payment to the owner. The owner may not demand or accept any rent payment from the tenant in excess of this maximum, and must immediately return any excess rent payment to the tenant.

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

**PHA Policy**

The PHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed

under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The PHA is not liable for any unpaid charges under separate non-lease agreements. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

**f. Security Deposits Owed by Tenant [24 CFR 982.313]**

The landlord/agent has the sole right to set the maximum-security deposit that can be asked of the tenant in the voucher program. The amount requested cannot be higher than the amount requested by the landlord/agent for unassisted (open market) units. Usually, the local open market security deposits do not exceed one month's contract rent. Both the landlord/agent and the applicant will be informed that the PHA does not pay the landlord/agents for any vacancy, damages or unpaid rents.

The applicants will be informed, when the PHA receives the Request for Tenancy Approval form, that they should start arranging funds for any needed utility company deposits or for the landlord/agent's security deposit for the unit.

**i. State Requirement to Return Security Deposit**

Both the landlord/agent and tenant will be informed that state law requires the repayment or accounting of the security deposits within thirty days of the termination of the lease or move-out. This requirement helps to establish the time frames for any special claims to be filed and serves to provide an accounting to the tenant of the deposit.

**ii. State Lock Change Requirement at Move-Out**

Landlord/agents are reminded that Texas law requires that lock changes be made within seven days of move-out and this is a limiting factor for any unpaid rent or vacancy claims.

## **6. Approvable Owner [24 CFR 982.306]**

### **a. Owner Eligibility**

The owner must be an eligible owner, approvable by the Housing Division, with no conflicts of interest (For more information regarding Owner Qualifications see Chapter 8 – II.D).

## **8 – I.D. HAP CONTRACT EXECUTION [24 CFR 982.305]**

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

1. The PHA has inspected the unit and has determined that the unit satisfies the HQS requirements;
2. The landlord and the tenant have executed the lease (including the HUD-prescribed tenancy addendum, and the lead-based paint disclosure information as required in 24 CFR 35.92(b) of this title); and
3. The PHA has approved leasing of the unit in accordance with program requirements;
4. The PHA must inspect the unit within fifteen days after the family and the owner submit a request for tenancy approval in order to determine whether the unit satisfies the HQS requirements, and notify the family and owner of the determination. The fifteen-day clock is suspended during any period when the unit is not available for inspection.

### **PHA Policy**

Due to the time sensitive nature of these “Initial” Inspections, the Housing Division will attempt to schedule the inspection by phone, fax, or email. The Housing Division will use mail if the owner and family cannot otherwise be reached.

## **8 – I.E. HAP CONTRACT EXECUTION [24 CFR 982.305]**

Upon approval of the assisted tenancy (see Chapter 8 – I.B), the owner and the PHA can execute the HAP contract. The HAP contract is the contractual agreement between the PHA and the owner of a unit occupied by a Housing Choice Voucher (HCV) program participant. Under the HAP contract the Housing Division agrees to make housing assistance payments to the owner on behalf of the family and the owner agrees to comply with all program requirements as stated in the HAP contract.

The PHA cannot pay any housing assistance payments to the owner until the HAP contract has been executed. The PHA is in no way responsible for any rents prior to the execution of a contract between the PHA and the landlord/agent.

The initial amount of the housing assistance payment by the PHA to the owner is reflected on the HAP contract at the time of HAP contract execution. The amount of the monthly housing assistance payment may change during the term of the HAP contract based on changes to the family's income, household composition, or other changes affecting the housing assistance payment amounts.

The PHA must use best efforts to execute the HAP contract before the beginning of the lease term. The HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed.

If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner. (See Chapter 13 Part III. for more information on HAP Contracts)

## **8 – I.F. CHANGES IN LEASE OR RENT**

### **1. Changes in Lease [24 CFR 982.308(g)]**

The tenant and the owner may not make any changes to the tenancy addendum. If the tenant and owner agree to any other changes in the lease, those changes must be in writing and the owner must immediately give a copy of the changes to the PHA. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of the tenancy and execution of a new HAP contract are not required for agreed changes in the lease. However, there are certain circumstances where the PHA must approve a new tenancy and the execution of a new lease and HAP contract are required. These circumstances include:

- If the owner or family request a new lease;
- If there are changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- If there are changes in lease provisions governing the term of the lease;
- If the family moves to a new unit, even if in the same building or complex.

## **2. Restrictions on Moves [24 CFR 982.354]**

When a family moves to a new unit, even if the unit is in the same building or complex, a new RFTA, lease and HAP contract are required and the PHA must complete all the steps necessary to Approve Tenancy as outlined in section 8 – I.B. of this chapter.

### **PHA Policy**

The participating family is restricted from moving during the initial term of the lease, usually for a period of one year. After the initial term of the lease, the PHA further restricts the voluntary movement of tenants to one move per year except for: cases of health, safety (family abuse, etc.), education, or employment or by mutual agreement of the tenant and the landlord to reduce the lease period. This requirement also applies to portable units being administered by other PHAs. Any assisted move must be with written notice, as specified in the lease, to both the landlord / agent and the PHA before the move takes place. If the tenant is in violation of 24 CFR 982.552, they may be denied permission to relocate with continued assistance. (See Chapter 10 for more information on Moving with Continued Assistance).

## **3. Changes in Rent [24 CFR 982.308, 24 CFR 982.309]**

The owner is required to notify the PHA of any changes in the rent to owner amount at least 60 days before any such rent change goes into effect. The Housing Division will agree to a requested increase in rent only if the amount of the rent to the owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 7, and the PHA has determined that the increase will not place the tenant in a financial hardship. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease.

### **PHA Policy**

Owners are required to request rent increases in writing through the method determined by the Housing Division. The Housing Division will determine whether the rent increase is reasonable and notify the owner in writing. The Housing Division will process only one rent increase in a 12-month period.

Rent Increases will be made effective with the family's next annual recertification. Requests must be received by the Housing Division at least 60 days before the annual recertification effective date to be approved.

## PART II. OWNERS IN THE HCV PROGRAM

### 8 – II.A. OWNER OVERVIEW [24 CFR 982.4(b), [24 CFR 982.453; 24 CFR 982.306(f)]

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families. The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program. The term “owner” includes a principal or other interested party, such as a designated agent of the owner. Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

### 8 – II.B. OWNER OUTREACH [24 CFR 982.54]

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the Wichita Falls Housing Division’s jurisdiction, particularly in encouraging owner participation in areas outside of poverty or minority concentration.

To encourage sufficient units located outside racially or financially impacted areas, the PHA will monitor the location of all leased units. If sufficient units in non-impacted areas are not evident, an intensified outreach to landlords/agents and property managers outside the impacted areas will be accomplished.

#### PHA Policy

The Wichita Falls Housing Division or the Department of Development Services will meet with real estate agents, apartment managers, property landlord/agents and rental property developers to encourage their understanding and participation in the Housing Choice Voucher program.

The PHA will be responsible for explaining the program to any interested persons, including both prospective landlord/agents and applicants. The Housing Division’s website and HCV brochures are available and explains the program in detail to both landlord/agents and tenants. The Landlord Brochure and Landlord Resources section of the PHA’s website includes additional information for current and prospective landlords/agents. Those landlord/agents who have signed a Request for Tenancy will have the program explained and any questions answered on a one to one basis.

The PHA will maintain maps designating minority and low-income concentrations. The PHA will maintain a list of landlords/agents who have expressed a desire to participate in the program. This “Unit List” will be provided to all applicants at voucher issuance and to all participants in order to assist in the family’s search for suitable housing. This list will include units within all areas of the PHA’s jurisdiction and will contain the owner contact information, building structure type, any associated property name, bedroom size(s) available, and any other applicable amenities. In addition to the Unit List, families are

encouraged to use the internet, newspapers, yard signs, real estate offices, friends, and "word of mouth" referrals in their search for housing. All persons seeking housing will also be referred to other subsidized apartment complexes, the Public Housing Authority, and to other landlord/agents of available units that have been completed under the local Rental Rehabilitation Program. The staff will also provide information on units, which are LITHC or other types of assistance, which requires the complex to accept lower income families.

## **8 – II.C. OWNER RESPONSIBILITIES [24 CFR 982.452].**

The basic owner responsibilities in the HCV program are as follows:

1. Complying with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease;
2. Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit;
3. Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance;
4. Complying with equal opportunity requirements;
5. Preparing and furnishing to the PHA information required under the HAP contract;
6. Collecting the security deposit, the tenant rent, and any charges for unit damage by the family;
7. Enforcing tenant obligations under the dwelling lease;
8. Paying for utilities and services that are not the responsibility of the family's as specified in the lease;
9. Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]; and
10. Complying with the Violence Against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating tenancy for an HCV family (See Chapter 13 Part VIII for more information on VAWA protections).

## **8 – II.D. OWNER QUALIFICATIONS**

The Housing Division does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the Housing Division may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program.

**1. Owners Barred from Participation [24 CFR 982.306(a)&(b)]**

The Housing Division must not approve the assisted tenancy if the Housing Division has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the Housing Division not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

**2. Leasing to Relatives [24 CFR 982.306(d)]**

The Housing Division must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The Housing Division may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit but does not apply to PHA approval of a new tenancy with continued tenant-based assistance in the same unit.

**3. Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19; Form HUD-52641, Section 13]**

The Housing Division must not enter into any contract or arrangement including approval of tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the Housing Division (except a participant commissioner);
- Any employee of the Housing Division, or any contractor, subcontractor or agent of Housing Division, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs;
- Any member of the Congress of the United States;

**4. Owner Actions that May Result in Disapproval of a Tenancy Request [24 CFR 982.306]**

HUD regulations permit the Housing Division to disapprove a request for tenancy for various actions or inactions of the owner. If the Housing Division disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units. For purposes of this section, "owner" includes a principal or other interested party.

### **PHA Policy**

The Housing Division may at any time refuse to approve a request for tenancy if it becomes aware of any of the following:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy for tenants of assisted units under the HCV program or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
  1. Threatens the right to peaceful enjoyment of the premises by other residents;
  2. Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;
  3. Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
  4. Commits drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet State or local housing codes; or
- The owner has not paid State or local real estate taxes, fines or assessments.

### **8 – II.E. NEW OWNER REQUIRED DOCUMENTS**

All new Landlords may be required to provide the following documentation:

- Direct deposit agreement with voided check or other bank printout showing the account number, routing number, and the names on the account;
- IRS W-9 form with original signature;

- Copy of warranty deed, or other approved deed or proof of control of the unit;
- Copy of management agreement (for property management companies);
- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517; and
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum - Form HUD-52641-A, the Violence Against Women Lease Addendum HUD-91067, and the Drug-Free Housing Lease Addendum.

## **8 – II.F. REQUEST FOR TENANCY APPROVAL (RFTA)**

**[HCV Guidebook – Housing Search & Leasing Part 8]**

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a unit is found, the owner and the family must complete the Request for Tenancy Approval form that's provided to the family at voucher issuance and return the form to the Housing Division. The RFTA provides information to the PHA about the unit location, rent and security deposit amount, the allocation of responsibility for utilities, appliances and services provided, and other conditions of the lease. The RFTA also provides information the owner may use as part of their background check process (See Chapter 6 – II.D.(d) for more information regarding the RFTA).

Once the RFTA has been submitted to the Housing Division, the Housing Division will begin the approval of tenancy process. Applicants and landlord/agents will be cautioned that the PHA is not responsible for any rental assistance payments until all the following are completed:

1.) The unit has passed HQS inspection, 2.) The applicant and landlord have signed an acceptable lease form, and 3.) The PHA and landlord/agent have entered into the housing assistance payment contract (See Chapter 8 – I.B. for more information on the Approval of Tenancy process).

## CHAPTER 9 REEXAMINATIONS

### CHAPTER OVERVIEW

The Housing Division must reexamine each family's income and composition at least annually and adjust the family's level of assistance accordingly. Certain circumstances require Interim Reexaminations to be completed as well. PHAs must establish reasonable procedures for conducting reexaminations of families' income that allow for proper and timely verification of all information and advance notification to the family of any rent change. The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

### PART I. ANNUAL REEXAMINATIONS [24 CFR 982.516]

#### 9 – I.A. OVERVIEW

The Housing Division must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

#### 9 – I.B. SCHEDULING AND NOTIFICATION

##### 1. Scheduling Annual Reexaminations

PHAs must complete an annual reexamination for each HCV participant family at least once every 12 months. The effective date of the reexamination must fall within 12 months of their previous annual reexamination or new admission effective date.

##### 2. Notification and Participation of Annual Reexaminations

There is no requirement that PHAs conduct an in-person interview as a part of the annual reexamination process. PHAs are required to conduct reexaminations in alternative formats as reasonable accommodations for individuals with disabilities who may be unable to attend a face-to-face interview because of their disability.

#### PHA Policy

The Housing Division will track annual reexaminations through a software tracking system and will schedule annual reexaminations accordingly. The Housing Division may choose to conduct annual reexaminations in person, by mail, by phone, through an on-online certification process, or other virtual method. Notification of the Annual Reexamination will be sent by mail or through the

Assistance Connect portal. Documents will be accepted by mail, by fax, email, through the on-line Assistance Connect portal, DocuSign, or in-person.

**9 – I.C. CONDUCTING ANNUAL REEXAMINATIONS [24 CFR 982.516, HCV Guidebook, PIH Notice 2023-27]**

The Housing Division is required to conduct an annual reexamination for all families. The PHA must obtain and document in the tenant file third-party verification for all the below components, or document in the tenant file why third-party verification was not available. The annual re-certification process will follow the regulations for initial certification, except photocopies of existing data may be transferred to any new file in the case of moving to a new address.

The following components must be reviewed and updated at Annual Reexamination:

**i. Changes in income, assets, deductions, expenses, and household characteristics.**

- See Chapter 5 – I.F. for information on calculation of Annual Income at Annual Reexamination.

**ii. Changes in Family Composition**

- Review and update the voucher size on the HUD-50058
- If the household size increases, check to see that if their current unit meets HQS space standard requirements.

**iii. Payment Standard**

- Update the payment standard based on the lower of the voucher size or unit size and using the PHA's current Payment Standard Schedule (See Chapter 13 Part I for information on Payment Standards).

**iv. Utility Allowances**

- Update the utility allowance based on the lower of the voucher size or unit size using the PHA's current Utility Allowance Schedule (See Chapter 13 Part II for information on Utility Allowances).

**9 – I.D. NOTIFICATION OF NEW FAMILY SHARE / HAP AMOUNT [HUD-52641]**

The Housing Division must notify the owner and family of any changes in the amount of the HAP payment and tenant rent amount. The notification will specify the date in which such changes will go into effect.

## **PART II – INTERIM REEXAMINATIONS [24 CFR 982.516, PIH Notice 2023-27]**

### **9 – II.A. OVERVIEW**

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported and under what circumstances the Housing Division must process interim reexaminations to reflect those changes.

HUD regulations also permit the Housing Division to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination because of any changes since the last income determination.

### **9 – II.B. REPORTING CHANGES IN INCOME / FAMILY COMPOSITION**

Interim reexamination will be completed when the family requests a change based on any adjustments in family income, family expenses or family composition, or when one is required to be completed by HUD regulations or as outlined under this Plan.

An Interim Reexamination may be required if evidence is provided by other federal or state agencies, by the Enterprise Income Verification (EIV) system, by other individuals, or as a result of a quality control audit that indicates the need to do a re-examination before the next scheduled review date.

#### **PHA Policy**

Tenants are required to report any increase or decrease in both income or family composition in writing within 30 days of the change. To receive the benefit of a decrease in the family share the changes must be reported before the 25th of the month to allow processing time.

Tenants are informed of this requirement during their initial certification and at each regular reexamination. All tenants will also be informed of the Enterprise Income Verification system that will notify the PHA of any discrepancy between reported income and IRS/Social Security income data.

### **9 – II.C. TIME FRAMES FOR PROCESSING CHANGES**

All efforts will be made to ensure that any change that reduces the tenant's share will be placed in effect as soon as possible, but no later than the first of the next month after the change is reported. Any increases in Total Tenant Payment or Family Share from an interim or regular

reexamination will become effective 30 days after the next rental due date following the change in income, not necessarily the date the change is reported. Unreported increases in income will be charged when the voucher holder has failed to provide required information within 30 days of income or family change and a repayment agreement will be offered.

## **9 – II.D. EFFECTS OF REPORTED CHANGES**

Any increase in income or decrease in income must be reported. During the year between annual re-examinations if the amount of increased income will affect the Total Tenant Payment or Family Share with an increase of less than \$25 a month, no changes in the HAP will be made until the next recertification date. This doesn't apply to families who have received an earlier reduction in family share because of decreases in income until their income is back to the amount prior to the reduction.

## **9 – II.E. FAMILY COMPOSITION CHANGES THAT RESULTS IN A VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]**

If a change in the family size or composition of a current participant occurs with the result being that a participant is now under or over housed, the PHA must issue a voucher for that family to move to the correct family unit size and assure adequate funding for that family.

## **9 – II.F. NOTIFICATION OF NEW FAMILY SHARE / HAP AMOUNT [HUD-52641, HAP Contract]**

The Housing Division must notify the owner and family of any changes in the amount of the HAP payment and tenant rent amount. The notification will specify the date in which such changes will go into effect.

## CHAPTER 10. MOVES & PORTABILITY

### OVERVIEW

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

### PART I. MOVING WITH CONTINUED ASSISTANCE

#### 10 – I.A. ALLOWABLE MOVES [24 CFR 982.354]

A family may move to a new unit with continued assistance if:

1. The assisted lease for the old unit has terminated because the PHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.
2. The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
3. The family has given proper notice of lease termination to the PHA and the owner (if the family has a right to terminate the lease on notice to the owner, for owner breach, or otherwise).
4. The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member or if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move. A PHA may not terminate assistance if the family, with or without prior notification to the PHA, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. However, any family member that has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move is not required to believe that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. (See Chapter 13 Part VIII for information on Violence Against Women (VAWA) policy.)

## 10 – I.B. RESTRICTIONS ON MOVES

### 1. Initial Lease Term

#### PHA Policy

The participating family is restricted from moving during the initial term of the lease, usually for a period of one year. Exceptions include moves related to VAWA, reasonable accommodation, and or HQS violations [24 CFR 982.354].

### 2. Moves within a 12 Month Period

#### PHA Policy

After the initial term of the lease, the PHA further restricts the voluntary movement of tenants to one move per year with the following HUD required exceptions: cases of health or safety, (Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking, Reasonable Accommodation, Harassment in housing or housing-related transactions on the basis of race, color, religion, sex, disability, familial status, and national origin, etc.), or by mutual agreement of tenant and landlord to reduce the lease period. This requirement also applies to portable units being administered by other PHAs [24 CFR 982.354].

### 3. Written Notice [24 CFR 982.551]

Any assisted move must be with written notice, as specified in the lease, to both the landlord / agent and the PHA before the move takes place. If the family wants to move to a new unit that is located outside the initial PHA's jurisdiction, the notice to the initial PHA must specify the area where the family wants to move. VAWA protections apply – See Chapter 13 Part VIII for more information.

### 4. Insufficient Funding [PIH Notice 2016-09(7)]

#### a. The PHA may deny a move:

The PHA may deny permission to move if the PHA does not have sufficient funding for continued assistance. The PHA must provide written notification to the local PIH field office within 10 business days of determining that it is necessary to deny moves to a higher-cost unit based on insufficient funding.

A PHA must not deny a request to move due to insufficient funding unless all of the following applies:

1. The move is to a higher cost unit (for moves within the PHA's jurisdiction) or to a higher cost area (for portability moves);

2. The receiving PHA is not absorbing the voucher (applicable only to portability moves); and
3. The PHA would be unable to avoid termination of current participants during the calendar year in order to remain within its budgetary allocation (including any available HAP reserves) for housing assistance payments.

**Higher cost unit** is defined as a unit which requires a higher subsidy amount due to an increase in the gross rent for the new unit.

**Higher cost area** is defined as an area where the PHA would have to pay a higher subsidy amount due to higher payment standards or more generous subsidy standards of the receiving PHA.

If a PHA approves a family's request to move and then subsequently experiences a funding shortfall, the PHA may only rescind the voucher if the family would be allowed to remain in its current unit. If the family cannot remain in the unit (e.g. family has already vacated the unit or the family has already notified the owner of their intent to vacate and the owner has re-let the unit to another family) the PHA must not rescind the voucher. The family must be allowed to lease a new unit.

**b. The PHA may NOT deny a move:**

A PHA may not deny a family request to move under portability for insufficient funding:

- If the receiving PHA has confirmed that they will absorb the family into their program. In such cases, the initial PHA has no grounds to deny the portability move under 24 CFR 982.354(e)(1);
- For families moving within the PHA's jurisdiction (even if the new unit is a higher cost unit) if the family must move from their current unit (e.g. the unit failed HQS, the owner failed to renew the lease, etc.). If the family is moving under portability, the PHA may deny the move under these circumstances if the family is moving to a higher cost area under portability and the receiving PHA is not absorbing the family into their program;
- Because it wishes to admit additional families from its waiting list into its voucher program, regardless of whether it has unit months available to do so. If the PHA denies a family's request to move, it may not subsequently admit families from its waiting list to its HCV program until families with open requests to move (based on PHA policy) are processed.

**c. Notice of Insufficient Funding**

The PHA must provide written notification to the local HUD Office within 10 business days of determining it is necessary to deny moves due to insufficient funding. Only one notification per calendar year is required and the notice must include the following:

1. A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses.
2. A statement certifying the PHA has ceased issuing vouchers and will not admit families from their waiting list while the limitation on moves is in place.
3. A copy of the PHA's policy stating how the PHA will address families who have been denied moves.

**PHA Policy**

Should families be denied a move due to insufficient funding, the Housing Division will create a list of families whose moves have been denied. The Housing Division will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

When funds become available, the families on this list will take precedence over families on the waiting list. The Housing Division will notify families with open requests to move in writing when funds become available.

**5. Pending Termination**

If at any time the tenant is in violation of 24 CFR 982.552 (Grounds for Termination), they may be denied permission to relocate with continued assistance (See Chapter 13 Part VIII for information on VAWA protections).

**10 – I.C. MOVING PROCESS [24 CFR 982.354]**

**1. Notification**

If a family wishes to move to a new unit, the family must notify the Housing Division and the owner before moving out of the old unit or terminating the lease on notice to the owner. If the family wishes to move to a unit outside the Housing Division's jurisdiction under portability, the notice to the Housing Division must specify the area where the family wishes to move. The notices must be in writing. Failure to provide proper notice may result in termination and a 3-year penalty (See Chapter 11 – G. for information on 3-Year Penalties).

## 2. Approval

### a. PHA Policy

Upon receipt of a family's notification that the family wishes to move, the Housing Division will determine whether the move is approvable in accordance with the regulations and policies set forth in Chapter 10. (See Chapter 10 – I.A and 10 – I.B.)

### b. Family Moves within the PHA Service Area

If a family wishes to move to a new unit within the Housing Division's program area, the family will be offered a voucher to look for new housing. The family will be reminded to notify the Housing office, in writing, if they decide to vacate their unit. The date of this notification will be indicated in the family's file. The family will be advised that to continue on the program they must contact the landlord/agent in writing and verify that all rent and utility bills are current and paid to date. It is the family's responsibility to have the landlord sign and return the Release of Tenancy/Intent to Move form to the PHA.

### c. Family Moves Outside the PHA Service Area

Part II of this Chapter describes the processes for when a family wishes to move out of the Housing Division's program area under portability

## 3. Zero HAP Families Who Wish to Move [24 CFR 982.455]

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The PHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if the PHA determines no subsidy would be paid at the new unit, the PHA will refuse to enter into a HAP contract on behalf of the family.

## PART II. PORTABILITY

### 10 – II-A. OVERVIEW [24 CFR 982.353, HCV Guidebook]

Within the limitations of the regulations and this plan, an eligible family that has been issued a voucher can lease a unit that meets the program requirements anywhere in the United States, provided that a PHA administering a tenant-based program has jurisdiction in the area in which the unit is located. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability.

An applicant family will be allowed to move to another jurisdiction under portability provided that the head of household or spouse was a resident of the PHA's jurisdiction at the time the initial application for assistance was submitted and that all other portability requirements are

met. Non-resident applicants will be eligible to move under portability after the family has been an active HCV participant in the Wichita Falls Housing Division's jurisdiction for a period of at least 12 months. A family is considered an HCV participant once a HAP contract is executed on behalf of the applicant family.

A family must be income eligible in the area where the family initially leases a unit with assistance to be admitted into the program. This means that applicant families who exercise portability must meet the applicable income limits of the receiving PHA's jurisdiction. Income eligibility may not need to be re-determined for participant families, however, the receiving PHA reserves the right to re-determine income eligibility.

## **10 – II-B. INITIAL PHA'S RESPONSIBILITIES [24 CFR 982.301, PIH Notice 2016-09(4)]**

### **1. Overview**

At the initial voucher briefing, the Housing Division will provide families with information about where a family may lease a unit, including information about portability. The Housing Division will provide an explanation of how portability works as part of both the oral briefing and the briefing packet to all families.

The Housing Division will also explain to families who elect to move under portability how differences in the receiving PHA's policies may affect the family's assistance through screening criteria, subsidy standards, payment standards and other elements of the portability process which may affect the family's assistance.

### **2. Outgoing Vouchers [24 CFR 982.353, 24 CFR 982.355]**

A family may move with voucher assistance anywhere in the United States where there is a PHA administering a voucher program. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which receiving PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. The family is also responsible for providing proper notice to their current landlord in accordance with their lease agreement.

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

#### **a. Applicant Families [24 CFR 982.353 - 24 CFR 982.355, HCV Guidebook]**

Applicant families must be allowed to move to another jurisdiction under portability provided that the head of household or spouse was a legal resident of the PHA's jurisdiction at the time the initial application for assistance was submitted and as long

as all other portability requirements are met. The Housing Division, restricts non-resident applicants from moving under portability for a period of 12-months from the time the family is admitted to the program. A family is considered a participant once a HAP contract is executed on behalf of an applicant family.

For applicant families, the initial PHA must determine the family's HCV program eligibility, including whether the family is income eligible in the area in which the family wishes to move. The initial PHA's policies for eligibility are used for all other eligibility criteria. If the applicant family meets all HCV eligibility criteria but is not income eligible in the area to which the family wishes to move, the PHA must inform the applicant family that they may not move to that area with continued HCV assistance. The family may, however, lease a unit in the initial PHA's jurisdiction if the family is HCV eligible (including income eligible) in the initial PHA's jurisdiction.

**b. Participant Families [24 CFR 982.253, HCV Guidebook]**

A participant family is a family that has leased up in a unit with the Housing Choice Voucher program. The date the family becomes a participant family is the effective date of the first HAP Contact executed by the PHA for the family. Income eligibility is not redetermined for participant families, that means, the participant family's income does not need to be within the receiving PHA's income limits in order to qualify for portability.

**c. Denying Portability [PIH Notice 2016—09(6)]**

PHA's must deny a family's request to move:

- For applicant's who are not eligible in the receiving PHA's jurisdiction, and
- For families who have moved out of their assisted unit in violation of the lease (See Chapter 13 Part VIII for VAWA protections).

The Housing Division will also deny permission to move under portability:

- If the request to move does not comply with the PHA's policies including prohibiting any move by the family within the initial lease term and prohibiting more than one move by the family during any one-year period;
- Non-Resident applicants for 12 months from the time the family is admitted to the program;
- If the PHA does not have sufficient funding for continued assistance (See Chapter 10 – I.B for information on Restrictions on Moves);
- If the family's action or failure to act cause the family to be ineligible under Grounds for Denial or Termination of Assistance. (Grounds for Denial of Assistance are outlined in Chapter 3 and Grounds for Termination in Chapter 11 of this document.)

### **3. Contacting the Receiving PHA [24 CFR 982.355]**

Once the receiving PHA is selected, the initial PHA must contact the receiving PHA to determine whether the receiving PHA will bill or absorb the family's voucher. The receiving PHA must advise the initial PHA in writing of its decision.

A receiving PHA who notifies the initial PHA in writing of its intent to absorb cannot reverse this decision without the consent of the initial PHA. If the receiving PHA will bill the initial PHA for the portability voucher and the cost of the HAP will increase due to the move, the initial PHA may deny the move if it does not have sufficient funding for continued assistance.

### **4. Voucher Issuance [PIH Notice 2016-09]**

Once the portability request is approved, the initial PHA issues the family a voucher. Once the receiving PHA has been selected the initial PHA also advises the family how to contact and request assistance from the receiving PHA to include the name, telephone number, and email of the receiving PHA's staff responsible for working with incoming portability families as well as any procedures related to appointments for voucher issuance that the receiving PHA has shared with the initial PHA.

The voucher issuance term will be 60 days. See 6 – II.D. for information regarding voucher extension and expiration.

### **5. Providing Portability Information to the Receiving PHA [PIH Notice 2016-09, 24 CFR 982.355]**

The initial PHA will promptly notify the receiving PHA to expect the family by contacting the receiving PHA on the family's behalf.

The initial PHA must also send the receiving PHA the following documents:

1. Form HUD-52665 with Part I completed by the Initial PHA.
2. The most recent HUD-50058, Family Report, or in the case of an applicant family – family and income information in a format similar to that of the HUD-50058
3. Copies of all related verification information.
  - The initial PHA must have a signed and valid HUD-9886 “Authorization to Release of Information Privacy Act” on file before transmission of income verification information obtained through the Enterprise Income Verification (EIV) system.
4. A copy of the voucher signed by the participant and the Housing Division.

### **PHA Policy**

In addition, the Housing Division will provide the following information, if available, to the Receiving PHA:

- Social Security Numbers (SSNs)
- Documentation of photo identification
- Documentation of citizenship or eligible immigration status
- Information on any current reasonable accommodation

#### **6. Incoming Vouchers**

The Housing Division may absorb some or all incoming portable vouchers when it has funding available. Otherwise, when the Housing Division reaches full utilization (or when there are questions about the availability of HUD HAP payments), the Housing Division will not absorb incoming portable Vouchers but will bill the sending PHA for the family's costs under the program.

### **10 – II-C. RECEIVING PHA'S RESPONSIBILITIES [24 CFR 982.355, PIH NOTICE 2016-09]**

The receiving PHA is required to administer HCV assistance for an eligible family moving into its jurisdiction under portability. HUD may exempt a receiving PHA from the requirement to assist an incoming portability family under extreme circumstances. The receiving PHA may only refuse to assist a portability family under this exclusion after receiving written approval from HUD. Additionally, the receiving PHA may refuse to process a portability move as a result of applying their own policies for denial or termination of assistance.

#### **1. Responding to the Initial PHA [24 CFR 982.355]**

The receiving PHA must respond via email or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA.

#### **2. Expired Initial PHA Voucher [PIH Notice 2016-09]**

If the initial PHA's voucher has already expired when the family arrives at the receiving PHA, regulations require the receiving PHA contact the initial PHA to determine whether it will extend the voucher term. If the initial PHA extends the voucher, the receiving PHA processes the ported family and the receiving PHA's voucher expiration date will be based on the initial PHA's extended deadline

### **3. Income Eligibility and Reexamination [24 CFR 982.355]**

The receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program.

#### **PHA Policy**

For any family moving into its jurisdiction under portability, the Housing Division will conduct a new reexamination of family income and composition based on the current 50058 provided.

The Housing Division will not delay issuing the family a voucher or delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the Housing Division cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the Housing Division will rely upon the current 50058 submitted by the Initial PHA along with any supporting documentation and verifications provided to the extent that they (1) accurately reflect the family's current circumstances and (2) were obtained within the last 120 days. New information may be verified by documents provided by the family.

### **4. Briefing & Issuance [HCV Guidebook, 24 CFR 982.355]**

The Housing Division will require the family to attend a briefing. The Housing Division will provide the family with a briefing packet and in an individual briefing, will orally inform the family about the Housing Division's payment and subsidy standards, procedures for requesting approval of a unit, the inspection process, and the leasing process. The size of the voucher (that is the number of bedrooms or unit size for the family) is determined by the receiving PHA in accordance with its own subsidy standards. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher.

### **5. Voucher Issuance [24 CFR 982.355]**

After receiving the form HUD-52665 and supporting documentation from the initial PHA, the receiving PHA must promptly issue a voucher to the family for its search in the receiving PHA's jurisdiction. HUD expects the receiving PHA to process the family's paperwork and issue the family a voucher 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.

### **6. Voucher Term [24 CFR 982.355, PIH Notice 2016-09, HCV Guidebook]**

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of its voucher, the receiving PHA's voucher may not expire before 30 days from the new

expiration date of the initial PHA's voucher. The receiving PHA may delay issuance of the voucher or approval of the unit if the family refuses to comply with the receiving PHA's procedures.

**7. Voucher Suspension [24 CFR 982.355, PIH Notice 2016-09]**

The Receiving PHAs must suspend the voucher when an incoming portability participant/applicant submits a Request for Tenancy Approval Form. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied.

**8. Voucher Extensions [24 CFR 982.355(c)(14), Notice PIH 2016-09]**

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. Extensions provided by the receiving PHA are only valid for the family's search in the receiving PHA's jurisdiction. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher.

When extending the voucher, receiving PHAs need to consider the billing deadline. The receiving PHA must ensure that any voucher expiration date leaves sufficient time to process a Request for Tenancy Approval, execute the HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) of the initial billing. If the initial billing is not received by the initial PHA by the deadline date, the receiving PHA will generally have to absorb the voucher unless the initial PHA accepts the late billing.

**9. Notifying the Initial PHA [PIH Notice 2016-09]**

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program, or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher.

If an incoming family ultimately decides not to lease in the jurisdiction of the receiving PHA, the receiving PHA must refer the family back to the initial PHA. The voucher of record for the family is once again the voucher originally issued by the initial PHA, and the initial PHA's policies apply. Any extensions of the initial PHA's voucher to allow the family additional search time to return to the initial PHA's jurisdiction or to move to another jurisdiction are at the discretion of the initial PHA.

**10. Decision to Absorb or Administer [24 CFR 982.355, HCV Guidebook]**

The receiving PHA has the option to administer the subsidy for the initial PHA or to absorb the portable family into its own HCV program. The receiving PHA may absorb the family into its own program provided it has funding available under its ACC to do so and such a decision will not result in over-leasing for the Calendar Year. The receiving PHA does not actually absorb the family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA's jurisdiction.

A PHA that decides to administer a voucher may decide to absorb that voucher at some point in the future and does not need to wait for a recertification to absorb. In cases where the receiving PHA decides to absorb a family after it has been billing the initial PHA for that family, the receiving PHA must send form HUD-52665 to the initial PHA. When an applicant family leases up under portability, the receiving PHA's decision to administer the subsidy or absorb the family will determine which PHA counts the family for income targeting purposes. If the receiving PHA bills the initial PHA, the family will be included in the initial PHA's income targeting calculations. If the receiving PHA absorbs, it will include the family in its admissions when calculating the percentage of extremely low-income families.

## **11. Administer a Portable Family's Voucher**

### **1. Portability Billing [24 CFR 982.355]**

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA shall bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee). The initial and receiving PHAs continue to have discretion to negotiate and agree to a different administrative fee amount.

### **2. Initial Billing Deadline [24 CFR 982.355, PIH Notice 2016-09]**

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be received no later than 90 days following the expiration date of the family's voucher issued by the initial PHA. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term. In cases where the suspension of the term of the voucher will delay the initial billing submission, the receiving PHA must notify the initial PHA of the delayed billing before the billing deadline and document that the delay is due to the suspension of the voucher. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or email.

If the initial PHA has not received a billing notice by the deadline and determines that it will not accept a late billing, the initial PHA must inform the receiving PHA of this decision in writing. If the initial PHA still subsequently receives a late billing notice on

behalf of the family, it returns the late Form HUD-52665 to the receiving PHA. A receiving PHA that failed to send the initial billing by the billing deadline is generally required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased).

**3. Submission of Annual & Interim Reexaminations [PIH 2016-09]**

The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount. The updated form HUD-50058 must be sent to the initial PHA no later than 10 business days following the effective date of the reexamination.

**4. Change in Billing Amount [PIH Notice 2016-09]:**

The Receiving PHAs must notify the initial PHA of changes in the billing amount no later than 10 business days following the effective date of the change. 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. If the receiving PHA fails to send the Form-HUD-52665 and Form HUD-50058 within 10 business days following the effective date of the HAP change, the initial PHA is not responsible for paying any increase in the monthly billing amount incurred prior to the notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

**5. Overpayments [Notice PIH 2016-09]**

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

**6. Late Payments [Notice PIH 2016-09, HCV Guidebook]**

The initial PHA must pay the initial billing amount within 30 calendar days of the receipt of Form HUD-52665. Subsequently, the initial PHA must pay no later than the fifth business day of each month for each month that the billing arrangement is in effect. The payment must be provided in a form and manner that the receiving PHA is able to accept. If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA shall send a copy of the notification to the PIH field office in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the PIH field office with jurisdiction over the receiving PHA that HUD

transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the two agencies on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the PIH field office decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

**7. Denial or Termination of Assistance [24 CFR 982.355, HCV Guidebook]**

At any time, either the initial PHA or the receiving PHA may determine that it is necessary to terminate the family's assistance in accordance with the PHA's termination policies. In these instances, either PHA may issue a termination notice and conduct the informal hearing (See Chapter 11 for information on Termination of Assistance).

In the case of a termination, the Housing Division should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment.

**8. Notification of Billing Arrangement Termination [PIH Notice 2016-09(13)]**

The receiving PHA must send an updated form HUD-52665 to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement.

## Chapter 11 TERMINATION OF ASSISTANCE

### 11 – A. OVERVIEW

HUD requires that the PHA terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

### 11 – B. FAMILY NO LONGER REQUIRES ASSISTANCE

#### 1. Family Withdrawal

The family may request that the Housing Division terminate the housing assistance payments on behalf of the family at any time.

##### PHA Policy

The request to terminate assistance must be made in writing and signed by the head of household. Before terminating the family's assistance, the PHA will follow the notice requirements in Section 11 – F of this chapter.

#### 2. Zero HAP [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

##### PHA Policy

A notice of termination will be sent to any family that has zero HAP for 180 consecutive days. If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the Housing Division of the changes in circumstances and request an interim reexamination before the expiration of the 180-day period.

### 11 – D. GROUNDS FOR TERMINATION OF ASSISTANCE

#### 1. Mandatory Denial or Termination of Assistance

HUD requires that the Housing Division terminate assistance in the following circumstances:

**a. Criminal, Drug Activity, and Alcohol Abuse**

**i. Lifetime Registered Sex Offenders [Notice PIH 2012-28] Lifetime Registered Sex Offenders [Notice PIH 2012-28]**

Persons subject to a lifetime registration under a state sex offender program are permanently denied. Should the Housing Division discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the Housing Division must immediately terminate assistance for the household member.

The PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

**ii. Drug related Criminal Activity [24 CFR 982.552(b)(1), 24 CFR 982.553(a)(1)(i)]**

HUD requires that the Housing Division prohibit admission for a period of 3 years or terminate assistance if:

- The PHA determines that any household member is currently engaging in, or has engaged in, illegal use of a drug in the last 3 years;
- The PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten, or has threatened in the last 3 years, the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- A household member has been evicted from federally assisted housing for drug-related criminal activity in the last 3 years.

The PHA may admit the household if the PHA determines:

- That the household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or
- That the circumstances no longer exist (for example, the criminal household member has died or is imprisoned).

In addition, HUD requires that the Housing Division prohibit admission or terminate assistance if a household member has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing.

**Definitions: [24 CFR 5.100]**

- **Drug** means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
- **Drug-related criminal activity** is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

**iii. Violent Criminal Activity [24 CFR 982.553]**

The PHA may prohibit admission or terminate assistance of a household to the program if the Housing Division determines that any household member is currently engaged in, or has engaged in violent criminal activity.

**Definitions: [24 CFR 5.100]**

- **Violent criminal activity** means any criminal activity that has, as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

**iv. Alcohol Abuse [24 CFR 982.551, 24 CFR 982.553]**

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

**v. PHA Policy on Criminal, Drug Activity, and Alcohol Abuse**

If the family violates any family obligation under the program this PHA may terminate the family's assistance. Any family member or guest that is indicted for criminal activity, drug activity or alcohol abuse will be terminated with a thirty-day notice to landlord.

Any member of the family terminated from federally assisted housing for drug, violent felonious criminal activity, or who's alcohol abuse has threatened the health, safety, or right to peaceful enjoyment of those in the immediate vicinity of the premises shall be denied admission to the HCV program for 3 years (see 11 – G for more information on 3-Year Penalties).

The PHA chooses to use indictment as the level of "preponderance of evidence" for termination. The 3-year waiting period will not be applicable, if a person was terminated from the program for drug or criminal activities and the indictment is later dropped or the person is not convicted of the crime. The PHA will allow the household to reapply for HCV rental assistance without the 3-year waiting period.

If convicted, the three year wait to reapply will begin with the date of conviction not indictment.

**b. Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)]**

The Housing Division must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease.

**PHA Policy**

Serious and repeated lease violations may include, but are not limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, criminal activity, and alcohol abuse.

Any member of the family terminated from federally assisted housing due to an eviction shall be denied admission to the HCV Program for a period of 3 years (See Chapter 11 – G for more information on 3-Year Penalties).

**c. Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The Housing Division must deny admission or terminate assistance if any family member fails to sign and submit any required consent form (See Chapter 3 for more information on consent requirements).

**PHA Policy**

The Housing Division shall also deny admission or terminate assistance if a family has revoked their signed consent.

**d. Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

The Housing Division must terminate assistance if:

- i. A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
- ii. A family submits evidence of citizenship and eligible immigration status in a timely manner, but the United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or
- iii. A family member, as determined by the Housing Division, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. Federal regulations under 24 CFR 5.514(c) requires that termination be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. This does not apply if the ineligibility of the

ineligible individual was considered by the Housing Division in calculating any proration of assistance provided for the family.

**e. Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

If the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

**PHA Policy**

The Housing Division will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, as long as there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

**f. Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5), FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his / her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the Housing Division must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

**g. Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2012-10]**

The Housing Division must immediately terminate program assistance for deceased single member households. The PHA is required to confirm the death with the family's head of household or listed emergency contact person.

## 2. PHA Grounds for Denial or Termination of Assistance

HUD also grants the Housing Division authority to deny program assistance for an applicant, or terminate assistance for a participant at any time for any of the following grounds:

### a. Breach of Family Obligations [24 CFR 982.551, 24 CFR 982.552]

The federal rules provide for denial of participation to an applicant or termination of housing assistance to a participant if a family has breached or breaches its Housing Choice Voucher Family Obligations.

Breach of family obligations include but are not limited to failure of the family to attend scheduled meetings, briefings or appointments, failure to respond to written request for program eligibility or income information, failure to allow the unit to be inspected. See Chapter 6 – I.E for a full list of family obligations.

### b. Threats of Violence [24 CFR 982.552(c)(ix)]

The PHA may deny or terminate assistance if the family has threatened, or engaged in, abuse or violent behavior toward PHA personnel. Tenant violation of lease provisions on threats or disturbances of neighbors is covered in the lease and can also cause the landlord / agent to evict the family and cause termination of future assistance.

### c. Family Fraud, Bribery, or Other Corrupt or Criminal Act [24 CFR 982.552]

If the family has committed fraud by commission, omission or misrepresentation in connection with federal housing programs, the PHA may terminate assistance and cancel the HAP contract. The PHA will make every effort to recover any overpayments made on behalf of the tenant as a result of fraud, unreported or underreported income, or other abuse.

### d. Debts Owed [24 CFR 982.552]

The Housing Division will, at any time, deny admission or terminate assistance if:

- The family currently owes rent or other amounts to any PHA in connection with Section 8 or Public Housing Assistance under the 1937 Act;
- The family has not reimbursed any PHA for amounts the Housing Division paid to an owner under a HAP contract for rent or other amounts owed by the family under the lease;
- The family has breached the terms of a repayment agreement entered into with the Housing Division

**e. Family Absence from the Unit [24 CFR 982.312]**

The family may be absent from the unit for brief periods. The Housing Division must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the household is residing in the unit.

**PHA Policy**

If the family is absent from the unit for more than 90 consecutive calendar days, the family's assistance will be terminated. Whenever the Notice of termination will be sent in accordance with Chapter 11 – F.

**f. Insufficient Funding [24 CFR 982.454, PIH Notice 2011-28]**

The Housing Division may terminate HAP contracts if the Housing Division determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

The Housing Division will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Chapter 13 Section VII. If the Housing Division determines there is a shortage of funding, prior to terminating any HAP contracts, the Housing Division will determine if any other actions can be taken to reduce program costs. See Chapter 10 – I.B.(4) for information on move restrictions due to insufficient funding. See PIH Notice 2011-28 for more information on available cost saving measures.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP contracts as a last resort.

**PHA Policy**

**i. Waiting List Voucher Suspensions**

Prior to terminating HAP Contracts, the Housing Division will notify in writing all Voucher holders who were recently issued Vouchers and have not executed a HAP Contract that due to insufficient funding from HUD, the Housing Division cannot execute a HAP Contract at this time. These families' Voucher's will be suspended, until funds become available.

After funds have become available, the families will be notified in writing that they may continue their search for housing. If a period of 60 days has elapsed, each family will need to be recertified to determine if they're still eligible for the program as described in Chapter 3.

**ii. Non-Elderly / Non-Disabled Move Suspensions**

The Housing Division will next notify all current non-elderly and non-disabled household participants that are attempting to move to a new location, with no current HAP Contract in effect. These families Voucher's will be suspended, until funds become available.

After funds have become available, the families will be notified in writing that they may continue their search for housing. If a period of 60 days has elapsed, each family will need to be recertified.

**iii. Termination due to Insufficient Funding**

If the Housing Division must terminate HAP contracts due to insufficient funding, the Housing Division will do so in accordance with the following criteria and instructions.

The Housing Division will inform the local HUD field office. The Housing Division will terminate the minimum number needed in order to reduce HAP costs to a level within the Housing Division's annual budget authority.

- Single, non-elderly, non-disabled individuals will be terminated first.
- Non-elderly, non-disabled households who are able to pay 90 to 100% of their adjusted income towards rent would be terminated second.
- Non-elderly, non-disabled households who are able to pay 80 to 89% of their adjusted income towards rent would be terminated third.
- Non-elderly, non-disabled households who are able to pay 70 to 79% of their adjusted income towards rent would be terminated fourth.
- Non-elderly, non-disabled households who are able to pay 60 to 69% of their adjusted income towards rent would be terminated fifth.
- Non-elderly, non-disabled households who are able to pay 50 to 59% of their adjusted income towards rent would be terminated sixth.

**11 – E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING]**

This section addresses the protections against termination of assistance that the Violence against Women Act of 2005 (VAWA) provides for victims of domestic violence, dating violence, and stalking.

## **1. VAWA Protections Against Termination**

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program. As do the limitations discussed under the next heading.)

- i. First, VAWA provides that the Housing Division may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the Housing Division, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4)].
- ii. Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].
- iii. Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].
- iv. Fourth, it gives the Housing Division the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

## **2. Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]**

VAWA does not limit the authority of the Housing Division to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as the Housing Division does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(2)].

Likewise, VAWA does not limit the authority of the Housing Division to terminate the assistance of a victim of domestic violence, dating violence, or stalking if the Housing Division can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(3)].

HUD regulations at 5.2005(d)(3) and 24 CFR 5.2003 define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm.

In determining whether an individual would pose an actual and imminent threat, the factors to be considered per 24 CFR 5.2003 include the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

### **PHA Policy**

In determining whether a program participant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the Housing Division will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking;
- Whether the threat is a physical danger beyond a speculative threat;
- Whether the threat is likely to happen within a short period of time; and
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the Housing Division's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

### **3. Documentation of Abuse [24 CFR 5.2007]**

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, the Housing Division will request that the individual provide documentation supporting the claim (See Chapter 13 Part VIII for more information)

The Housing Division reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the Housing Division will document the waiver in the individual's file.

### **4. Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the Housing Division the explicit authority to "terminate assistance to any individual who is a

tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member.

Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the Housing Division chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the Housing Division must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

### **PHA Policy**

The Housing Division will terminate assistance to a family member if the Housing Division determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, the Housing Division will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the Housing Division by the victim. The Housing Division will also consider the factors. Upon such consideration, the Housing Division may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the Housing Division does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

### **11 – F. NOTIFICATION OF TERMINATION [HCV Guidebook 15-7]**

Upon making a decision to terminate assistance, the PHA shall give both the owner and the family written notice of termination that states the:

1. Specific reasons for the termination;
2. Effective date of the termination;
3. Family's right to request an informal hearing; and
4. Family's responsibility to pay the full rent to the owner if the family remains in the assisted unit after the termination effective date.

## 11 – G. 3-YEAR PENALTY

The Housing Division will enforce a 3-Year Waiting Period for the following:

### **1. Drug, Violent Criminal Activity, or Alcohol Abuse [24 CFR 982.553(a)(2)(ii)]**

The Housing Division will deny assistance for an applicant or terminate assistance for a participant if the head of household or other adult member was terminated from any federally assisted housing program for drug, violent criminal activity, or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of those in the immediate vicinity or has participated in drug, violent criminal activity, or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of those in the immediate vicinity within the last 3 years.

The PHA chooses to use indictment as the level of "preponderance of evidence" for denial/termination under the HUD Drug-Free PHA Policy. If convicted, the three-year wait to reapply will begin with the date of conviction not indictment. The three-year waiting period will not be applicable, if a person was terminated from the program for drug or violent criminal activities and the indictment is later dropped or the person is not convicted of the crime. In the instance of a dropped indictment, it is the responsibility of the previously assisted tenant to notify the PHA of these circumstances. Upon notification, the PHA will allow the household to reapply for HCV rental assistance without the 3-year waiting period.

### **2. Eviction [24 CFR 982.552(b)]**

The Housing Division will deny assistance for an applicant or terminate assistance for a participant if the head of household or other adult member has been evicted from federally assisted housing, including while active on the Housing Choice Voucher Program or Project Based Voucher program, within the last 3 years.

### **3. Vacating a Federally Assisted Unit Without Proper Notice [24 CFR 982.551, 24 CFR 982.354]**

The Housing Division may deny assistance, for a period of 3 years, to any family who has vacated their unit without proper notice to both the Landlord and the PHA. Most lease forms that can be approved, provide for a written notice to the landlord/agent prior to move out. The usual time frame for notification is 30 days although the regulations state that not more than 60-days be required. Under the provisions of 24 CFR 982.309(c)(2), the family is also obligated to notify the landlord/agent and PHA, in writing, before the family moves.

The tenant is required to provide the PHA notice of any absence from the unit. The PHA must not make an assistance payment for any unit that has been vacated. Letters, visits, phone calls, information from the neighbors and the landlord/agent can provide information on the status of the unit. Utility disconnects, hookups or transfers are some of the many ways the PHA has to establish move out dates. Movement from one unit

to another unit usually involves the connection or transfer of utilities at the new unit and disconnection of utilities at the old unit.

If the vacate without notice occurred while on the Wichita Falls Housing Assistance Program or Project Based Voucher program, the PHA will take into consideration mitigating factors on a case by case basis such as unexpected and extended medically related stays where the Family was unable to give proper notice. Families who are absent from the unit and the landlord has subsequently considered the unit abandoned will be considered a Vacating the unit without proper notice. See Chapter 6 – I.E.(iv) for more information on family absences from the unit. See Chapter 13 – Part VIII for VAWA protections).

#### **4. Restriction on being added to another family's lease**

If the family or person was terminated from the program for cause, they may not be added to any other family's lease until a three-year period is over.

## Chapter 12 INFORMAL & INFORMAL HEARINGS

### CHAPTER OVERVIEW

Families seeking admission to or already participating in the Housing Choice Voucher program have the right to receive an informal review or hearing in most circumstances in which a PHA makes a decision affecting their eligibility or amount of assistance. The purpose of an informal review or hearing is to resolve applicant or participant disputes with the PHA without legal action and to correct PHA errors that might have occurred in the decision-making process [HCV Guidebook 16-1].

### PART I. INFORMAL REVIEWS

#### 12 – I.A. OVERVIEW

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program.

#### 12 – I.B. DECISIONS SUBJECT TO REVIEW

An applicant may request an informal review of the Housing Division's decision to deny the applicant's participation in the Housing Choice Voucher Program [24 CFR 982.554(a)]. Denial of assistance may include any of the following as listed below [24 CFR 982.552(a)(2)]:

- Denying listing on the Housing Division's waiting list;
- Denying or withdrawing a voucher;
- Refusing to enter into a HAP contract or approve a lease; or
- Refusing to process or provide assistance under portability procedures.

#### 12 – I.C. NOTICE TO APPLICANTS [24 CFR 982.554(a)]

Ineligible applicants will be promptly provided with a letter stating the reason for their ineligibility, and offering them an opportunity for an informal review. The notice will contain:

1. A brief statement of the reason(s) for the decision,
2. A statement that the applicant may submit a written request to the Housing Division for an informal review of the decision if the applicant disagrees with the decision to deny assistance, and

3. A statement that the request must be made within 10 business days from the date of the denial of assistance notice.

## **12 – I.D. DECISIONS NOT SUBJECT TO REVIEW [24 CFR 982.554(c)]**

Informal reviews are not required to be granted to applicants who dispute the following, unless such decisions result in denial of assistance:

- Discretionary administrative determinations by the Housing Division;
- General policy issues or class grievances;
- A determination of the family unit size under the Housing Division's subsidy standards;
- A Housing Division determination not to approve an extension of the voucher term;
- A Housing Division determination not to grant approval of the tenancy;
- A Housing Division determination that a unit selected by the applicant is not in compliance with HQS; or
- A Housing Division determination that the unit is not in accordance with HQS because of the family size or composition.

## **12 – I.E. INFORMAL REVIEW PROCESS**

### **1. Scheduling an Informal Review**

#### **PHA Policy**

A request for an informal review must be made in writing and delivered to the Housing Division no later than 10 business days from the date of the Housing Division's denial of assistance. If the request is not submitted timely, it will mean that the applicant has waived his or her right to request an informal review.

The Housing Division will schedule the informal review within 30 calendar days of the family's request provided that the applicant submits the proper written request for an informal review within the time allowed.

### **2. Informal Review Officer [24 CFR 982.554(b)]**

The informal review may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of this person.

### **3. The Informal Review [24 CFR 982.554(b)]**

The applicant shall be provided the opportunity to present written and oral objections to the decision of the Housing Division.

### **4. The Informal Review Decision [24 CFR 982.554(b)]**

The Informal Review Officer will decide whether the decision denying assistance to the applicant was justified and made according to the federal regulations and rules of the Housing Division. This decision will be in writing and issued promptly to the applicant, generally within 14 business days from the date of the review. The notice will state the decision and a brief statement of the reasons for the final decision.

## **PART II. INFORMAL HEARING**

### **12 – II.A. OVERVIEW [24 CFR 982.555(1)]**

The Housing Division must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the Housing Division's program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the Housing Division's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies. The Housing Division must not terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed and any requested hearing has been completed.

### **12 – II.B. DECISIONS SUBJECT TO INFORMAL HEARING [24 CFR 982.555(1)]**

The Housing Division **must** give the participant family an opportunity for an informal hearing for the following decisions:

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

## 12 – II.C. NOTICE TO PARTICIPANT [24 CFR 982.555(c)]

For all decisions subject to informal hearings, the PHA shall notify the family that the family may ask for an explanation of the basis of the PHA determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.

For decisions related to termination of assistance, the Housing Division will also give the participant prompt written notice of the decision made. Such written notices will contain a brief statement of the reasons for the decision and notice to the participant that if the participant does not agree with the decision, the family may request an informal hearing on the decision within 10 business days from the date of the notice.

## 12 – II.D. DECISIONS NOT SUBJECT TO INFORMAL HEARING [24 CFR 982.555(1)]

The Housing Division is **not required** to provide a participant family an opportunity for an informal hearing for the following:

- Discretionary administrative determinations by the Housing Division;
- General policy issues or class grievances;
- Establishment of Housing Division's schedule of utility allowances for families in the program;
- The Housing Division's determination not to approve an extension of a voucher term;
- The Housing Division's determination not to approve a unit or tenancy;
- The Housing Division's determination that an assisted unit is not in compliance with the HQS (except when the decision is for termination of assistance due to a breach of HQS caused by the family);
- The Housing Division's determination that the unit is not in accordance with the HQS because of family size;
- A determination by the Housing Division to exercise or not to exercise any right or remedy against an owner under a HAP contract.

## **12 – II.E. INFORMAL HEARING PROCESS [24 CFR 982.555(e)]**

### **1. Scheduling an Informal Hearing**

#### **a. PHA Policy**

The family must submit the written request for an informal hearing on a decision within 10 business days from the date of the notice. If the request for informal hearing is not submitted timely, the participant is deemed to have waived his/her right to request an informal hearing.

If an eligible informal hearing request is submitted within the required timeframe, the Housing Division will schedule the informal hearing within 30 calendar days of the family's request and send written notice to the participant. The written notice will contain the date, time, and place where the informal hearing will be conducted.

#### **b. City of Wichita Falls Legal Policy**

A family who is represented by an attorney must notify the Housing Division prior to the hearing date. The policies of the City of Wichita Falls require that the Housing Division have a representative from the City's Legal Department present for any correspondence, phone calls, or meetings when an attorney is involved. The hearing appointment will be coordinated based on the City of Wichita Falls' Legal Department's schedule.

### **2. Conducting Discovery and Providing Evidence [PIH Notice 2020-32]**

PHAs may request and copy any of the individual's or family's documents at the PHA's own expense in accordance with the applicable regulations. Additionally, the individual or family must be given the opportunity to examine any PHA documents that are directly relevant to the hearing prior to the informal hearing. This may include transmitting documents electronically or by mail that would normally be exchanged at the PHA's office.

#### **PHA Policy**

The family must provide any documents directly relevant to the informal hearing prior to the scheduled hearing through the mail, via email, or in person. All documents must be received by the Housing Division no later than 24 hours prior to the scheduled hearing.

### **3. Rights of the Participant [24 CFR 982.555(e)(2)]**

- Prior to the scheduled hearing, the family will be given the opportunity examine any PHA documents that are directly relevant to the hearing. The Family will be allowed to copy any such document at the family's expense. Electronic copies may be provided to the participant via email at no cost.
- The family may be represented by an attorney or other representative at the family's expense.
- The family may present evidence, both oral and written.

- The family has the right to question any witnesses and has the right to argue their case prior to the hearing officer's decision.

#### **4. Rights of the Housing Division [24 CFR 982.555(e)(2)]**

- The Housing Division may be represented by an attorney at the informal hearing.
- The Housing Division may introduce evidence, both oral and written.
- The Housing Division has the right to question any witness examined in the informal hearing.
- The Housing Division has the right and must be given the opportunity to pre-hearing discovery, at Housing Division's offices, of any participant documents directly relevant to the hearing. The Housing Division must be allowed to copy any such document at the Housing Division's expense.
- If the participant does not make the document available for examination on request of the Housing Division, the participant may not rely on the document at the hearing.

#### **5. Hearing Officer [24 CFR 982.555(e)(3):**

The Housing Division will designate a hearing officer(s) to conduct the informal hearing. The hearing officer shall be a person other than a person who made or approved the decision under review or a subordinate of this person.

#### **6. Conduct of the Informal Hearing [24 CFR 982.555(e)(5)]**

The hearing officer will regulate the conduct of the hearing in accordance with hearing procedures commonly accepted and followed. The PHA and the family shall 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.

#### **7. Remote Informal Hearings [Notice PIH 2020-32]**

##### **a. Overview**

There is no requirement that informal hearings be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct an informal hearing remotely, applicants may still request an in-person informal hearing instead.

##### **b. Identifying and Resolving Technology Barriers**

Throughout the informal hearing process, the PHA must ensure that the lack of technology or inability to use technology does not pose a disadvantage to families even when not readily apparent to the PHA. In addition, the remote informal hearing must be accessible

for persons with disabilities, limited English proficiency (LEP), and reasonable accommodation requirements (See Chapter 2 and PIH Notice 2020-23 for more information). The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

**c. Protection of Personal Identifiable Information (PII)**

All documents containing PII that are transferred via an unsecured informational system (i., electronic mail, Internet, or electronic bulletin board) must be encrypted. The family must also be provided with an accessible means by which to transmit their own evidence.

**d. PHA Policy on Remote Informal Hearings**

The Housing Division may conduct the remote informal hearing via a video conferencing platform, when available. If at any point the individual or family is unable to adequately access the video conferencing platform, or upon the individual or family's request, the informal hearing will be conducted by telephone conferencing call-in. If the individual/family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

**e. Notice of a Remote Informal Hearing [PHA Policy]**

Should a remote informal hearing be scheduled, the Housing Division will provide the family with the date and time of the scheduled hearing, login information and/or conferencing call-in information, and an electronic or physical copy of all materials being presented via first class mail or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

Documents will be shared electronically whenever possible. The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform. Informal Review Procedures [24 CFR 982.555(e)(3)]

**8. Failure to Appear**

**PHA Policy**

If the participant fails to appear for their hearing within 15 minutes of their scheduled hearing time, they are considered to have failed to appear. If a participant fails to appear for their scheduled hearing, the matter will be dismissed and the Housing Division's action will be upheld.

If the participant failed to appear at the scheduled time and was unable to reschedule the hearing in advance due to an emergency, the family must contact Housing Division in writing within 24 hours of the missed hearing, excluding holidays and weekends. Such request must be made in writing. The Housing Division will reschedule the hearing only if the participant can show good cause for failure to appear. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the participant. The participant should attach any available documentation supporting that they had good cause for missing the scheduled hearing. If such documentation is not provided, the Housing Division may either request documentation of the good cause prior to rescheduling the hearing or make a decision regarding the request to reschedule based solely on the available information.

**9. The Informal Hearing Decision [24 CFR 982.555(e)(6)]**

Factual determinations relating to the individual circumstances of the participant will be based on evidence presented at the hearing. The decision made by the hearing officer will be in writing and based on the facts established, HUD regulations, the Housing Division's policies and rules, and the applicable law. The decision shall briefly state the reasons on which the decision is arrived. A copy of the decision shall be furnished within a reasonable time to the participant, generally within 14 business days from the date of the hearing. The notice will state the decision and a brief statement of the reasons for the final decision.

**10. Situations in which Informal Hearing Decisions are not binding on the Housing Division [24 CFR 982.555(f)]**

The Housing Division is not bound by a hearing decision on the following matters:

- a. A matter for which the Housing Division is not required to provide an opportunity for an informal hearing, or that otherwise exceeds the authority of the person conducting the hearing under the PHA hearing and appeals procedures (See Part III of this Chapter for information on appeals).
- b. A decision is rendered that is contrary to HUD regulations, requirements or otherwise contrary to Federal, State, or Local law or to the Housing Division's policies and procedures.

If the Housing Division determines that it is not bound by a hearing decision, the Housing Division shall promptly notify the participant of the determination, and the reasons for the determination.

## PART III. APPEALS PROCESS

### 12 – III.A. OVERVIEW [PHA Policy]

Applicants or participants who have completed the informal review or informal hearing process and who wish to appeal the decision made by the review / hearing officer may do so through the Housing Division's appeal process.

### 12 – III.B. APPEALS [PHA Policy]

The appeal process is as follows:

#### 1. Appeal Level 1

Should the response by the informal review / hearing officer not be satisfactory to the person(s) bringing the complaint, an appeal, by either party, may be submitted to the Wichita Falls Director of Development Services or its designee. At this stage of the resolution process, the request for appeal and the complaint itself must be submitted in writing within 10 business days of the hearing officer's decision. The complaint should fully describe the nature of the problem and contain all pertinent information necessary to come to a thorough understanding of the situation. The information provided should include the complainant's name, address, and daytime telephone number. The Director of Development Services or its designee may ask for additional written information, which may aid in understanding the scope of the problem and has the option of meeting with the person(s) involved before reaching a decision. A response to the complainant should be made as expeditiously as practical, but no later than 10 business days from date of receipt of all written information provided or requested to be provided.

#### 2. Appeal Level 2

Should the response by the Director of Development Services not be satisfactory to the person(s) bringing the complaint, an appeal by either party may be made to the Assistant City Manager. The request for appeal and review must be made in writing within 10 business days of the response by the Director of Development Services. A response to the complainant should be made within 20 business days from receipt of the request for appeal to the Assistant City Manager.

#### 3. Appeal Level 3

Should the response from City officials be unacceptable to the complainant, a request for appeal may be made in writing to the Oklahoma City Office of the Department of Housing and Urban Development, Office of Public Housing.

## **PART IV. NON-CITIZEN APPEALS & HEARING PROCESS**

### **12 – IV.A. OVERVIEW [24 CFR 5.514(a)-(c)]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules for both applicants and tenants. Assistance to an applicant or tenant family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the Housing Division's hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

### **12 – IV.B. NOTICE OF DENIAL OR TERMINATION OF ASSISTANCE**

#### **[24 CFR 5.514(d)]**

The notice of denial or termination of assistance for noncitizens must advise the family the following:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the Housing Division either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

### **12 – IV.C. USCIS APPEAL PROCESS [24 CFR 5.514(e)]**

#### **1. Submission of Request for Appeal**

When the Housing Division receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the Housing Division must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the Housing Division with a copy of the written request for appeal and the proof of mailing.

### **PHA Policy**

The Housing Division will notify the family in writing of the results of the USCIS secondary verification within 10 calendar days of receiving the results. The family will have 30 calendar days from the date of the Housing Division's notification to appeal the results directly to the USCIS.

The family must provide the Housing Division a copy of the written request for appeal and proof of mailing within 10 calendar days of sending the request to the USCIS.

### **2. Documentation to be Submitted to USCIS**

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request form G-845S (used to process the secondary request) or such other form specified by the USCIS, and a cover letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

### **3. Decision by USCIS**

The USCIS will notify the family of its decision and send a copy to the Housing Division. When the USCIS notifies Housing Division of the decision, the Housing Division must notify the family of its right to request an informal hearing regarding a decision of ineligibility based on the INS decision.

### **PHA Policy**

The Housing Division will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

## **12 – IV.D. INFORMAL HEARING PROCEDURES AFTER USCIS APPEALS**

### **1. Overview [24 CFR 5.514(f)(1)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the Housing Division provide a hearing. The request for a hearing must be made either within 30 days of receipt of the Housing Division notice of denial, or within 30 days of receipt of the USCIS appeal decision.

### **2. Non-Citizen Applicant & Tenant Hearings [24 CFR 5.514(f)(2)]**

Denial, for applicants, or termination of assistance, for participants, based on immigration status will follow the informal hearing process as described in Chapter 12 - II of this plan.

**3. Hearing Decision [24 CFR 5.514(f)(3)]**

The Housing Division must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 days of the date of the informal hearing. The decision must state the basis for the decision.

**4. Retention of Documents [24 CFR 5.514(h)]**

The Housing Division must retain for a minimum of 5 years the following documents that may have been submitted to the Housing Division by the family, or provided to Housing Division, as part of the USCIS appeal or Housing Division informal hearing process:

- The application for assistance;
- Form completed by the family for income reexamination;
- Photocopies of any original documents, including original USCIS documents;
- Signed verification consent form;
- USCIS verification results;
- Request for a USCIS appeal;
- Final USCIS determination;
- Request for an informal hearing; and
- Final informal hearing decision

## CHAPTER 13. GENERAL ADMINISTRATIVE PROVISIONS

### PART I: PAYMENT STANDARDS

#### 13 – I.A. OVERVIEW [24 CFR 982.503; 982.505]

In the Housing Choice Voucher (HCV) program, payment standards are used in the calculation of the Housing Assistance Payment (HAP) that the Housing Division pays to the owner on behalf of the family leasing the unit. 24 CFR. 982.4 defines the word **“Payment Standard”** as the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

The payment standard for a family is the lower of:

- Payment standard for the family unit size indicated on the voucher; or
- Payment standard for the size of the unit leased by the family

The level at which the payment standard is set directly affects the amount of subsidy a family will receive, and, therefore, the amount of rent paid by program participants. If the family leases a unit with a gross rent at or below the payment standard for the family, the family’s share of the rent plus an allowance for utilities will be equal to the family’s total tenant payment (TTP). If the gross rent for the unit is higher than the payment standard, the family is responsible for the difference. In this case, the total family share will be higher than the family’s TTP (See Chapter 5 – III.A. for more information on Total Tenant Payment (TTP)).

Each year HUD publishes Fair Market Rents (FMRs). The term Fair Market Rent (FMRs) refers to both metropolitan area and small area FMRs. FMRs are calculated annually by HUD’s Office of Policy Development and Research (PD&R) and made available through the HUD User Web site. FMRs are established based on the 40th percentile of rents charged for standard rental housing in the FMR area. The Housing Division currently does not use small area FMRs.

#### 13 – I.B. SETTING PAYMENT STANDARDS [24 CFR 982.503, 24 CR 982.54]

The Housing Division sets the payment standards based on the HUD published FMRs. HUD requires that the Housing Division set the payment standard between 90% and 110% of the published FMR. The Housing Division will review its determination of the payment standard annually after publication of the FMRs. The Housing Division must revise the payment standard amount no later than 3 months following the effective date of the published FMR if a change is necessary to stay within the basic range. The Housing Division currently has one set of payment standards for its jurisdiction.

When considering adjustments to the payment standard, the Housing Division will consider:

1. The percentage of income families with rent burdens exceeding 30%;
2. Availability of suitable vacant units with rents below the payment standard through the review of the rent reasonable and vacancy rate data;
3. Unit size, quality and amenities of units leased under the program;
4. Average time and success rates for voucher holders to locate suitable housing;
5. Average market rates in the area; and
6. Number of families moving out of the Housing Division's jurisdiction through portability.

If it is determined that success rates will suffer or that families are having to rent low quality units or pay over 40% of income for rent, the payment standard may be raised to the level judged necessary to alleviate these hardships. Payment standards will not be raised solely to allow the renting of luxury quality units.

### **13 – I.C. APPLYING THE PAYMENT STANDARD [HCV Guidebook – Payment Standards Sec. 4.4]**

The payment standard is used to calculate the monthly HAP paid on behalf of a family under the HCV program.

The HAP is determined by taking the lower of:

- The Payment Standard minus the TTP or
- The Gross rent for the unit minus the TTP.

Under the HCV program, if the gross rent for the unit is lower than the payment standard, the family's share will be the full TTP. If the gross rent for the unit is higher than the payment standard, the family's share will be the TTP plus the amount by which the gross rent exceeds the payment standard. However, at initial lease up, the family's share cannot exceed 40 percent of the family's adjusted gross income.

### **13 – I.D. INCREASES IN PAYMENT STANDARD [24 CFR 982.505(c)(4)]**

When a change is made to the payment standard, the new payment standard will be applied to all new participants, families that move or enter into a new lease, and to families with a current HAP contract at the next anniversary date of the contract. Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination.

### **13 – I.E. DECREASES IN PAYMENT STANDARD [24 CFR 982.505(c)(3)]**

Should a decrease in the payment standard be implemented, the payment standard will be applied to all new participants and families that move or enter into a new lease. However, families who have a current HAP contract and will be affected by a payment standard reduction must receive 12 months prior notice before the effective date of the reduced payment standard amount.

#### **PHA Policy**

For families with a current HAP contract who will be affected by a payment standard reduction, the Housing Division will notify these families at their next annual recertification of the payment standard reduction and continue to use the payment standard that was in effect prior to the reduction for the recertification year. 12 months later, at the tenant's second annual recertification, the applicable payment standard for the current year will be applied.

### **13 – I.F. CHANGE IN FAMILY SIZE DURING THE HAP CONTRACT [24 CFR 982.505(c)(5)]**

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

## **PART II: UTILITY ALLOWANCES**

### **13 – II.A. OVERVIEW [24 CFR 982.517]**

The Housing Division shall maintain a utility allowance schedule for all tenant-paid basic utilities (telephone, cable, and internet are excluded), costs of tenant-supplied refrigerators and ranges, and for other tenant-paid housing services (e.g., trash collection (disposal of waste and refuse)). The utility allowance schedule is 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.

The Housing Division's established utility allowance schedule is used in determining the family share and the Housing Division's subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using the Housing Division's subsidy standards, whichever is the lower of the two.

**13 – II.B. UTILITY ALLOWANCE REVISION [24 CFR 982.517(c)]**

The Housing Division must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10% or more in any utility rate since the last time the allowance for that utility was revised. The Housing Division must maintain information supporting its annual review of the utility allowance and any revisions made in the utility allowance schedule.

**13 – II.C. REASONABLE ACCOMMODATION [24 CFR 982.517(e)]**

Upon request from a family that includes a person with disabilities, the PHA 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 in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability (See Chapter 2 for more information on Reasonable Accommodations).

**13 – II.D. OWNER NOTICE [24 CFR 982.308(g)]**

Any time a change is made in the responsibility for payment of utility expenses or provision of the stove or refrigerator, the owner and the tenant must report the change to the Housing Division prior to such change taking place. Changes in utility responsibilities must meet the requirements as laid out in Chapter 8 – I.F. Any such change requires a new lease and HAP Contract as well as an adjustment in the family's utility allowance.

**13 – II.E. TENANT-PAID UTILITY [HUD-52646(4), HCV Guidebook – Utility Allowance]**

Payment of bills for tenant-paid utilities is the responsibility of the family and any interruption or termination of utility services because of the family's failure to pay is considered a breach of the family's obligations under the HCV program. Likewise, failure to provide a working stove or refrigerator when responsible to do so is also a breach of the family's obligations. PHA's policies regarding the termination of assistance to families who cause their unit to be in violation of HQS because of failure to pay for necessary utilities or services or failure to provide required appliances such as cooking appliance and refrigerator are outlined in Chapter 7 – I.J.(3).

**PART III: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACTS**

**13 – III.A. HAP CONTRACT CONTENTS [24 CFR 982.451, HUD-52641]**

The Housing Assistance Payment (HAP) Contract, Form HUD-52641 is required by HUD and contains three parts:

## **1. Part A: Contract Information**

Part A of the contract includes basic contract information: the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by the owner and the tenant, and the signatures of the PHA representative and owner.

## **2. Part B: Body of Contract**

Part B, the Body of the Contract, describes in detail program requirements affecting the owner as well as the owner's roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Owner Certification
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third-Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Foreclosure
- Written Notices
- Entire Agreement: Interpretation

## **3. Part C: Tenancy Addendum**

The tenancy addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. All provisions in the HUD-required tenancy addendum must be added word-for-word to the owner's standard form lease that is used by the owner for unassisted tenants. The tenant has the right to enforce the tenancy addendum against the owner. The terms of the tenancy addendum prevail over any other provisions of the lease.

## 13 – III.B. HAP PAYMENTS

### 1. Overview [HCV Guidebook – HAP Contracts (Sec. 4)]

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the HAP contract and the owner must comply with the provisions of the HAP contract in order to receive such payments.

### 2. HAP Payment Schedule [[HCV Guidebook – HAP Contracts (Sec. 4)]

HAP payments are made to the owner on behalf of the family, at the beginning of each month. If a lease begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

#### PHA Policy

In addition to the monthly billing completed at the beginning of each month, the PHA will also complete a supplemental billing in the middle of each month which contains any partial payments for HAP contracts not executed prior to the scheduled monthly billing date.

### 3. HAP Amount & Responsibility [24 CFR 982.451(b)]

The amount of the HAP payment is determined in accordance with the policies described in Chapter 5, and is subject to change during the term of the HAP contract. The PHA must notify both the owner and family in writing of any changes in the housing assistance payment.

The monthly HAP payment made by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to the owner as specified in the lease.

The family is not responsible for payment of the PHA's portion of the rent to owner covered by the housing assistance payment. Likewise, the PHA is not responsible for any portion of the family share, including family rent to owner. Payment of the family share is the responsibility of the family.

### 4. Prohibition of Excess Payments [24 CFR 982.451(b), [24 CFR 982.510(c)]

The part of the rent to owner that the tenant pays may not be more than the difference between the rent to owner and the housing assistance payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum and must immediately return any excess rent payment to the tenant. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

If the owner receives any excess HAP from the Housing Division, the excess amount must be returned immediately. If the Housing Division determines that the owner is not entitled

to all or a portion of the HAP, the Housing Division may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract (See Chapter 13 Part IV for additional details on owner reimbursement of HAP overpayments).

**5. Owner Certification of Compliance [HAP Contract (HUD=52641)]**

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract. By endorsing the monthly check from the Housing Division, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS, that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence, that the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises, and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

**6. Term of the HAP Contract [24 CFR 982.309]**

The initial lease term must be for at least one year. During the initial term of the lease, the owner may not raise the rent to the owner.

**7. Rent Reasonableness [24 CFR 982.507, PIH Notice 2020-19]**

Before the Housing Division can enter into a HAP contract with an owner, the Housing Division must verify that the rent the owner proposes to charge is reasonable.

The Housing Division must also verify rent reasonableness when an owner has requested a rent increase. In determining if subsequent rent increases result in rents that are reasonable for units occupied by families under voucher HAP contracts, the PHA must take into consideration any rent-setting policies by the owner for existing families. Any increases in rent over time for HCV/PBV-assisted families must be similar to increases charged to unassisted families who have lived in their units for approximately the same amount of time. In other words, rents for existing HCV/PBV-assisted families may not exceed the rents charged to unassisted families in comparable units who have been in a property for approximately the same amount of time (See Chapter 7 Part II for more information on Rent Reasonableness).

**8. Rent Increases to Owners [PIH Notice 2020-19, HCV Guidebook – Rent Reasonableness]**

Owners may request a rental adjustment once per year. In order for the tenant to remain on the Housing Choice Voucher program in the unit, the new rent must meet rent reasonableness (See Chapter 7 Part II for more information on Rent Reasonableness). The allowed rent increase is the lesser of: 1) the reasonable rent as determined by the Housing Division or 2) the amount requested by the owner.

### **PHA Policy**

All rent increase requests must be submitted in writing to both the Housing Division and to the Tenant in the format prescribed by the Housing Division at least 60 days prior to the anniversary date of the HAP contract. Upon receipt of the owners written request, the Housing Division will:

1. Conduct a rent reasonableness study;
2. Notify the owner of the approval or denial determination;
3. Provide 30 days written notice to family;
4. Prepare and distribute the Notice of Amendment to the HAP Contract

If the rent is determined to not be reasonable, the Housing Division will attempt to negotiate the rent with the owner to an acceptable amount. If the Housing Division is unsuccessful and the owner proceeds with the rent increase, the tenant will be issued a voucher to move to a program acceptable unit.

### **9. Termination of HAP Payments [24 CFR 982.311]**

The Housing Division must continue making housing assistance payments to the owner in accordance with the HAP contract. Housing assistance payments may only be paid to the owner during the lease term, and while the family is residing in the unit.

HAP payments terminate when the HAP contract terminates, when the tenancy is terminated in accordance with the terms of the lease, or when the PHA terminates assistance for the family.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the Housing Division must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

### **PHA Policy**

The owner must inform the Housing Division when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the Housing Division when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the Housing Division with a copy of such judgment or determination.

The owner must inform the Housing Division should the family vacate the unit prior to receiving such judgement.

## **10. Family Move Out [24 CFR 982.311(d)]**

If the family moves out of the unit, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

## **11. Deceased Single Member Households [Notice PIH 2012-4(8)(b)]**

For deceased single member households or a household where the remaining household member is a live-in aide, PHAs are required to immediately terminate program assistance and discontinue the housing assistance payment. The owner is not entitled to any HAP for any month following the month in which the death occurred. The owner, however, may keep the housing assistance payment for the month in which the death occurred.

## **13 – III.C. BREACH OF HAP CONTRACT [24 CFR 982.453]**

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS;
- If the owner has violated any obligation under any other HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan;
- If the owner has engaged in drug-related criminal activity;
- If the owner has committed any violent criminal activity;
- If the Housing Division determines that a breach of the HAP contract has occurred.

When a breach of the HAP contract has occurred, the Housing Division may exercise any of its rights and remedies under the HAP contract. Rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The Housing Division may also obtain additional relief by judicial order or action.

The Housing Division must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The Housing Division must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

### **13 – III.D. LANDLORD FRAUD / PROGRAM ABUSE**

#### **PHA Policy**

If the landlord/agent has committed fraud or misrepresentation in connection with federal housing programs, the PHA will terminate the HAP contract. The PHA will review the circumstances causing termination and possible family involvement to determine if the family is eligible for re-certification and relocation to another unit with continuation of assistance. The PHA may refer the landlord/agent to the U. S. Justice Department for debarment from future participation in the program. The PHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse.

### **13 – III.E. CHANGE IN OWNERSHIP [HAP CONTRACT HUD-52461 (14)]**

The HAP contract cannot be assigned to a new owner without the prior written consent of the Housing Division. An owner under a HAP contract must notify the Housing Division in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the Housing Division.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the Housing Division finds acceptable. The new owner must provide the Housing Division with a copy of the executed agreement.

#### **PHA Policy**

The new owner must provide a written certification to the Housing Division that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- A certification that the new owner is not a prohibited relative.

### **13 – III.F. FORECLOSURE [Notice PIH 2010-49]**

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract. Any state or local law that provides longer time periods or other additional protections for tenants also applies.

### **13 – III.G. PAYMENTS TO LANDLORD / AGENTS / TENANTS**

#### **1. Internal Billing Procedure**

##### **PHA Policy**

HAP disbursements shall be processed by the Housing Division by the first business day of each month. A computerized statement detailing payment activity shall be provided electronically to the Landlord. All HAP payments made by the Housing Division to the Landlord are deemed received by the Landlord when the funds are wired by the Housing Division to the Landlord's bank. The Housing Division can recover overpayments by deducting from the HAP disbursement. The PHA must receive any changes affecting the monthly billing no later than the 20th of the month prior to the month in which the change will occur. Changes received after the 20th may be processed the following month. All annual recertifications must be completed and the unit passed inspection prior to the 20th of the month the contract expires to avoid disruption in payments.

The Housing Division may elect to complete a supplemental billing by the 20<sup>th</sup> of the month for new contracts entered into after the monthly billing was completed.

#### **2. Payment Register**

##### **PHA Policy**

The Housing Division will maintain a detailed listing of payments by landlord, tenant, address, utility payments and a listing of any vendor changes, which occurred during the month.

### **3. Penalties for Late Payment from PHA [24 CFR 982.451, HCV Guidebook]**

The HAP contract provides for late HAP penalties in accordance with generally accepted practice for late rent charges. The PHA agrees to pay a \$10.00 late charge per contract if the HAP payments are postmarked after the fifth day of a month. The tenant may not be charged a late fee if their share was paid on time and the PHA was late.

Penalties for late HAP payments can only be imposed if:

1. The penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants;
2. It is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and
3. The owner charges the assisted family for late payment of the family's share of the rent.

The Housing Division is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the Housing Division's control. In addition, late payment penalties are not required if the Housing Division intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook – Housing Assistance Payments (HAP) Contracts]. Any late charges must be paid from the PHA's administrative fee account.

The PHA cannot execute a HAP contract for any unit on which zero-assistance (Zero HAP) would be paid at New Admission, Move or Portability Move In.

### **4. Financial Records [PHA Policy]**

The Housing Division will keep all records pertaining to family eligibility, income verification, unit inspections and leases in a manner suitable for an unannounced federal performance audit. The Finance Department will provide financial oversight and management in accordance with HUD guidelines. The Housing Division will maintain landlord/agent rental payments and prepare IRS Form 1099 for income tax purposes. The PHA will maintain such manual or computerized ledgers as may be necessary for the day-to-day operation of the program. The PHA shall maintain a Check register, which will indicate all payments made to tenants and landlord/agents.

## **13 – III.H. PHA CAUSED ERRORS**

### **a. Sources of Errors**

PHA caused incorrect subsidy determinations include, but are not limited to:

- Failing to correctly apply program rules regarding household composition, income, assets, and/or deductions;

- Assigning the incorrect voucher size to a family;
- Errors in calculation (including but not limited to: incorrect housing assistance payments, family share of rent, or utility reimbursements).

**b. De Minimis Errors**

PHAs will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a PHA's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking.

As Housing Division become aware of the existence of an income calculation error, the Housing Division will correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. PHAs must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent.

**PHA Policy**

The Housing Division will seek to ensure that the correct level of assistance is given to each subsidized household in accordance with this plan. In cases where the Housing Division determines that there has been an incorrect subsidy determination, whether that be an overpayment or underpayment of subsidy, the Housing Division will promptly correct the Housing Assistance Payment (HAP), family share, and any utility reimbursement prospectively.

**PART IV. OWNER OR FAMILY DEBTS TO THE PHA**

**13 – IV.A. OVERVIEW**

The Housing Division is required to include in the Administrative Plan, policies concerning repayment by a family of amounts owed to the Housing Division [24 CFR 982.54]. This part describes the Housing Division's policies for recovery of monies owed to the Housing Division by families or owners.

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the Housing Division holds the owner or participant liable to return any overpayments to the Housing Division. The Housing Division will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the Housing Division, the Housing Division may utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies;
- Small claims court;
- Civil law suit.

## **13 – IV.B. OWNER CAUSED ERRORS AND PROGRAM ABUSE**

### **1. Overview**

An incorrect subsidy determination caused by an owner is generally the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family), accepting duplicate housing assistance payments for the same unit in the same month, or by accepting housing assistance payments after a family no longer resides in the unit.

### **2. Owner Reimbursement to the Housing Division**

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the Housing Division any excess subsidy received. The Housing Division may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the Housing Division may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

### **3. Prohibited Owner Actions**

An Owner participating in the HCV program must not:

- Make any false statement to the Housing Division [Title 18 U.S.C. Section 1001];
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)];

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the Housing Division;
- Charging a security deposit other than that specified in the family's lease;
- Charging the family for services that are provided to unassisted tenants at no extra charge;

- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;
- Knowingly accepting incorrect or excess housing assistance payments;
- Offering bribes or illegal gratuities to the City of Wichita Falls of Commissioners, employees, contractors, or other Housing Division representatives;
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the Housing Division;
- Residing in the unit with an assisted family;

#### **4. Additional Penalties**

In addition; to requiring the owner repay excess housing assistance payments, the Housing Division may also:

- Terminate the HAP contract;
- Bar the owner from future participation in any of the Housing Division's programs;
- Refer the case to state or federal officials for criminal prosecution.

### **13 – IV.C. FAMILY CAUSED ERRORS AND PROGRAM ABUSE**

#### **1. Overview**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the Housing Division to use incorrect information provided by a third party.

#### **2. Family Reimbursement to the PHA**

##### **PHA Policy**

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The Housing Division may, but is not required to, offer the family a repayment. If the family fails to repay the excess subsidy, the Housing Division will terminate the family's assistance in accordance with the policies in Chapter 11.

### **3. PHA Reimbursement to Family [HCV GB p. 22-12]**

#### **PHA Policy**

The Housing Division will not reimburse the family for any underpayment of assistance when the underpayment is clearly caused by the family.

### **4. Prohibited Actions**

An applicant or participant must not knowingly:

- Make a false statement to the Housing Division [Title 18 U.S.C. Section 1001];
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)];

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the Housing Division for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to the City of Wichita Falls Board of Commissioners, employees, contractors, or other Housing Division representatives;
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the Housing Division on the family's behalf;
- Use of a false name or the use of falsified, forged, or altered documents;
- Intentional misreporting of family information or circumstances (e.g. income, family composition);
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income);
- Admission of program abuse by an adult family member;
- Failure to keep tenant responsible utilities connected;
- Vacating a covered unit without proper notice to both the Housing Division and the Owner.

## 13 – IV.D. DEBTS TO THE HOUSING DIVISION

### 1. Owner Debts

#### **PHA Policy**

When a debt is owed to the Housing Division by an owner, the Housing Division will reduce the future HAP payments by the amount owed until the debt is paid in full. If the owner is not entitled to future HAP payments, the debt must be repaid by the owner within 30 days of the Housing Division's determination of the debt. If the owner fails to repay the debt within the required time frame the Housing Division will offer to enter into a repayment agreement. The terms of the repayment agreement will be the same for owners as for tenants.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the Housing Division will ban the owner from future participation in the program until the debt has been paid in full.

### 2. Tenant Debts [PIH Notice 2018-18, HCV Guidebook Chapter 22]

Tenants are required to reimburse the Housing Division if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The PHA may also require the tenant to reimburse the Housing Division for erroneous housing assistance payments made on behalf of the family due to any other items list under family program abuse. The tenant is required to reimburse the Housing Division for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the family is unable to repay the debt within 30 days, the Housing Division will offer to enter into a repayment agreement. If the tenant refuses to enter into a repayment agreement or fails to make payments on a repayment agreement the Housing Division shall terminate the family's tenancy and assistance, and may pursue other modes of collection. HUD does not authorize any PHA-sponsored amnesty or debt forgiveness programs.

## 13 – IV.E. REPAYMENT POLICY

### 1. Offer of Repayment Agreement

The PHA is the sole source for both the offer of and the approval of any repayment agreement. Families wishing to remain on the program will be required to enter a repayment agreement and to repay any amounts paid to the landlord/agent by the PHA on their behalf during the current certification period. The monthly repayment amount may be reduced to the minimum amount, and/or the length of time may be extended by the PHA, up to twenty-four months, in cases where tenant income has decreased.

## **2. Repayment Agreement Requirements [PIH Notice 2018-18]**

All repayment agreements shall be in writing, dated, signed by both the tenant and the Housing Division, include the total retroactive rent amount owed, amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, repayment agreements must contain the following provisions:

- a. Reference to the paragraphs in the Section 8 information packet whereby the tenant is in non-compliance and may be subject to termination of tenancy or assistance, or both.
- b. The monthly retroactive rent repayment amount is in addition to the family's regular rent contribution and is payable to the Housing Division.
- c. The terms of the agreement may be renegotiated if there is a decrease or increase in the family's income.
- d. Late and missed payments constitute default of the repayment agreement and may result in termination of tenancy and/or assistance.

PHA's are required to determine retroactive rent amount as far back as the Housing Division has documentation of family unreported income.

## **3. Repayment Options**

Tenants have the option to repay the retroactive rent balance in a lump sum payment, monthly installment; or a combination of the two.

## **4. Restrictions on Repayment Agreements**

### **a. Maximum Number of Repayment Agreements**

Only one repayment agreement will be allowed during program participation. Program participants who are currently in or who have previously been in and completed a prior repayment agreement and incur a second set of claims will have their assistance terminated within thirty (30) days.

### **b. Family Moves**

A family owing the PHA money will not be permitted to move to another unit until the repayment agreement has been concluded.

**c. Denial of Assistance**

If termination does occur, the family must reapply to the Waiting List should the family wish to receive housing assistance. All funds must be repaid to the PHA prior to receiving future assistance. The federal regulations do not permit portability of families owing money to the PHA.

**d. Maximum Payment / Maximum Length**

The PHA has the sole discretion of determining the monthly repayment amount, taking into consideration the tenant's income and circumstances. The amounts and details of repayment agreements are as follows: Under no circumstances shall the monthly payment be less than \$20.00 and the maximum length of time to repay amounts owed to the PHA is twenty-four months.

If the total amount owed to the PHA exceeds \$3,000, the family can request that the Repayment Agreement term be extended to a maximum of thirty-six months.

**5. Due Date**

All payments are due by the close of business day on the 1<sup>st</sup> of the month. If the 1<sup>st</sup> of the month does not fall on a business day, the due date is the close of business on the first business day after the 1<sup>st</sup> of the month.

**6. Non-Payment**

The Repayment Agreement will be in DEFAULT on the 2nd day of the month in which a full monthly repayment was not received by the Housing Division. If the agreement is not brought current by the last day of that month, the debt will be considered due and payable in full by the 15th day of the following month. The debt must be repaid in full, not just the monthly repayment amount. On the 16th day of the month following the original payment due (45 days past due), the Housing Division will terminate the tenant's HCV assistance if the entire debt has not been repaid. The tenant's assistance will terminate 30 days after that notice, to allow the landlord to receive proper notification.

**7. Damages**

Damages are defined by the Housing Division as amounts owed to the Housing Division by families who are no longer active on the program. Persons leaving the program owing the PHA for damages shall repay these amounts in full prior to being eligible for readmission from the waiting list. Each application for assistance will be screened for amounts owed to this PHA, or any other federally subsidized housing program. The applicant will be informed in writing of the amount owed and to whom. The notice will state that the applicant must repay the debt in full to the PHA within 10 business days from the date of the notice. The applicant must submit proof of the full repayment prior to the expiration of the 10-business day period. Should the PHA not receive such proof by the applicant, the

application will be removed from the waiting list and the applicant must reapply once the debt is paid.

## **PART V. SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)**

### **13 – V.A. OVERVIEW**

The PHA is required to complete a Section 8 Management Assessment Program (SEMAP) form and submit it to HUD annually. This form provides the background format for the PHA to grade itself on the overall performance of the agency.

SEMAP is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the Housing Division in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].

HUD may determine that the Housing Division’s failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

### **13 – V.B. SEMAP DEADLINE [24 CFR 985.101]**

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. Failure to submit SEMAP certification within the required time frame will result in an overall performance rating of “troubled.” The SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

### **13 – V.C. SEMAP INDICATORS [24 CFR 985.3]**

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

**Indicator 1: Selection from the Waiting List**

**Maximum Score: 15**

This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.

Points are based on the percent of families that are selected from the waiting list in accordance with the Housing Division's written policies, according to the Housing Division's quality control sample.

**Indicator 2: Rent Reasonableness**

**Maximum Score: 20**

This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units

Points are based on the percent of units for which the Housing Division follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the Housing Division's quality control sample.

**Indicator 3: Determination of Adjusted Income**

**Maximum Score: 20**

This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.

Points are based on the percent of files that are calculated and verified correctly, according to the housing division's quality control sample.

**Indicator 4: Utility Allowance Schedule**

**Maximum Score: 5**

This indicator shows whether the housing division maintains an up-to-date utility allowance schedule. Points are based on whether the housing division has reviewed the utility allowance schedule and adjusted it when required, according to the housing division's certification.

**Indicator 5: HQS Quality Control Inspections**

**Maximum Score: 5**

This indicator shows whether a Housing Division supervisor re-inspects a sample of units under contract during the Housing Division's fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.

Points are based on whether the required quality control re-inspections were completed, according to the Housing Division's certification.

**Indicator 6: HQS Enforcement**

**Maximum Score: 10**

This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension. In addition, if HQS deficiencies were not corrected within the above required timelines that the PHA stopped (abated) housing assistance payments (HAP) beginning no later than the first of the month following the correction period, or took prompt and vigorous action to enforce family obligations.

Points are based on whether all HQS deficiencies are corrected in accordance with the required time frames or that HAP was otherwise abated according to the Housing Division's certification.

**Indicator 7: Expanding Housing Opportunities**

**Maximum Points: 5**

Only applies to PHAs with jurisdiction in metropolitan FMR areas.

This indicator shows whether the Housing Division has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the Housing Division's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.

Points are based on whether the Housing Division has adopted and implemented written policies in accordance with SEMAP requirements, according to the Housing Division's certification.

**Indicator 8: Payment Standards**

**Maximum Points: 5**

This indicator shows whether the Housing Division has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the Housing Division's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.

Points are based on whether the Housing Division has appropriately adopted a payment standard schedule(s) according to the Housing Division certification.

**Indicator 9: Timely Annual Reexaminations**

**Maximum Points: 10**

This indicator shows whether the Housing Division completes a reexamination for each participating family at least every 12 months.

Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

**Indicator 10: Correct Tenant Rent Calculations**

**Maximum Points: 5**

This indicator shows whether the Housing Division correctly calculates the family's share of the rent to owner.

Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

**Indicator 11: Pre-Contract HQS Inspections**

**Maximum Points: 5**

This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.

Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

**Indicator 12: Continuing HQS inspections**

**Maximum Points: 10**

This indicator shows whether the Housing Division inspects each unit under contract at least biennially during assisted occupancy.

Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

**Indicator 13: Lease-up**

**Maximum Points: 20 points**

This indicator shows whether the Housing Division enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.

Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

**Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances**

**Maximum Points: 10 - Only applies to PHAs with mandatory FSS programs.**

This indicator shows whether the Housing Division has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.

Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

**The Housing Division currently does not participate in a Family self-sufficiency program.**

**Success Rate of Voucher Holders**

**Maximum Points: 5**

Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.

This indicator shows whether voucher holders were successful in leasing units with voucher assistance.

Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

**De-concentration Bonus Indicator**

**Maximum Points: 5**

Submission of data for this indicator is mandatory for PHA's using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50<sup>th</sup> percentile.

Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.

Points are based on whether the data that is submitted meets the requirements for bonus points.

## **PART VI. RECORD KEEPING**

### **13 – VI.A. OVERVIEW [24 CFR 982.158]**

The Housing Division must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request. In addition, the Housing Division must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### **13 – VI.B. RECORD RETENTION [24 CFR 982.158, 24 CFR 908.101]**

During the term of each assisted lease, and for at least three years thereafter, the Housing Division must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the Housing Division must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.

- Accounts and other records supporting the Housing Division's budget and financial statements for the program;
- Records to document the basis for the Housing Division's determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.
- The PHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date.
- Notice PIH 2018-18 requires the PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years except as stated in the next bullet.
- Notice PIH 2018-18 requires the PHA retain documentation such as EIV reports used to determine debts to the PHA such as for retroactive rent for the life of the debt.
- Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule consistent with the City of Wichita Falls' current record-keeping obligations.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. See Chapter 12 – IV.D.(10).

### **1. Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSNs), employer identification numbers (EINs), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a), and all other provisions of Federal, State, and local law.

### **2. Upfront Income Verification (UIV) Records**

Housing Agencies that access UIV data through HUD's Enterprise Income Verification (EIV) System are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media where the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.

### **3. Criminal Records [24 CFR 5.903]**

The Housing Division may only disclose the criminal conviction or arrest records that the Housing Division receives from a law enforcement agency to officers or employees of the

Housing Division, or to authorized representatives of the Housing Division who have a job-related need to have access to the information [24 CFR 5.903(e)(2)].

The Housing Division must establish and implement a system of records management that ensures that any criminal record received by the Housing Division from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose that the record was requested for has been accomplished, including expiration of the period for filing a challenge to the Housing Division action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The Housing Division must establish and implement a system of records management that ensures that any sex offender registration information received by the Housing Division from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose that the record was requested for has been accomplished, including expiration of the period for filing a challenge to the Housing Division action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by a Housing Agency other than under 24 CFR 5.905.

#### **4. Medical / Disability Records [Notice PIH 2010-26, [24 CFR 100.202(c)]**

Housing Agencies are not permitted to inquire about the nature or extent of a person's disability. The Housing Division may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the Housing Division receives a verification document that provides such information, the Housing Division should not place this information in the tenant file. The Housing Division should destroy the document.

## **PART VII: DETERMINATION OF INSUFFICIENT FUNDING**

### **13 – VII.A. OVERVIEW**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the Housing Division's ability to issue vouchers to families on the waiting list. This part discusses the methodology the Housing Division will use to determine whether or not the Housing Division has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### **13 – VII.B. METHODOLOGY**

The Housing Division will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the Housing Division's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the

actual HAP costs year to date. To that figure, the Housing Division will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the Housing Division cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the Housing Division will be considered to have insufficient funding.

## **PART VIII: VIOLENCE AGAINST WOMEN ACT (VAWA)**

**[24 CFR 5 Subpart L]**

### **13 – VIII.A. OVERVIEW**

The Violence Against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the Housing Choice Voucher (HCV) program. In cases where state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: Chapter 3 – I.F, “Family Breakup and Remaining Member of Tenant Family”; Chapter 3 – VI.D, “Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking”; Chapter 10 – I.A, “Allowable Moves”; Chapter 10 – I.B, “Restrictions on Moves”; and Chapter 11 – E. “Terminations Related to Domestic Violence, Dating Violence, or Stalking”;

### **13 – VIII.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]**

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

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

The term **domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the

victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grants, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

The term **affiliated individual** means, with respect to a person:

- A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
- Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

The term **sexual assault** means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent

The term **stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

### **13 – VIII.C. NOTIFICATION OF OCCUPANCY RIGHTS [24 CFR 5.2005]**

The Housing Division shall notify landlords and Housing Choice Voucher participants of the notification of occupancy rights under VAWA and certification form:

- At the time an applicant is denied admission to the program;
- At the time an individual is admitted to the program; and
- With any notification of termination of assistance.

### **13 – VIII.E. DOCUMENTING THE OCCURNECE [24 CFR 5.2007]**

#### **1. Request for documentation**

When an applicant or tenant represents to the Housing Division that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking entitled to the protections under 24 CFR 5.2005, or remedies under 24 CFR 5.2009, the Housing Division may request, in writing, that the applicant or tenant submit to the Housing Division one of the following verification documents:

- i. A completed and signed HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking";
- ii. A document signed by an employee, agent, or volunteer of a victim service provider, an attorney or medical professional, or a mental health professional

from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse, described in such documentation. The document must be signed by the applicant or tenant. The professional providing the documentation must sign and attest under penalty of perjury that the incident or incidents in question are bona fide and meet the requirements of the applicable definition set forth in this policy; or

- iii. A police or court record provided to the Housing Division by federal, state, tribal, or local police or court record describing the incident or incidents in question.

## **2. Time Allowed [24 CFR 5.2007]**

An individual who claims protection under the Violence Against Women Act (VAWA) and who is requested by the Housing Division to provide verification, must provide such verification within 14 business days after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA against proposed adverse action such as denial of admission, denial of assistance, termination of participation or eviction.

## **3. Conflicting Documentation [24 CFR 5.2007]**

If a covered housing provider receives the HUD form HUD-5382 “Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking” that contains conflicting information (including certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator), the covered housing provider may require an applicant or tenant to submit third-party documentation, as described under paragraph 1(ii) or 1(iii) of this section, within 30 calendar days of the date of the request for the third-party documentation.

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

## **4. Confidentiality [24 CFR 5.2007]**

All information provided to the Housing Division regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the Housing Division (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

## **13 – VIII.F. EMERGENCY TRANSFER PLAN [24 CFR 5.2005]**

### **1. Eligibility for Emergency Transfers**

A program participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer move if:

- The tenant reasonably believes that there is a threat of imminent harm from further violence if the resident remains within the same unit; or
- In the case of sexual assault, the resident may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer move.

### **2. Requesting an Emergency Transfer**

#### **PHA Policy**

To request an emergency transfer move, the tenant must notify their assigned Housing case worker and submit a written request for a transfer move to another unit. The case worker will provide the tenant with an Emergency Transfer Move Request form (HUD-5383). The Housing Division will provide reasonable accommodations to this policy to allow individuals with disabilities to submit the request in an accessible manner.

The tenant's written request for an emergency transfer move must include either:

- A statement expressing that the resident reasonably believes that there is a threat of imminent harm from further violence if the resident were to remain in the same dwelling unit assisted under the Housing Division program; OR
- A statement that the resident was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **3. Voucher Issuance**

#### **PHA Policy**

Once the Housing Division approves the Emergency Transfer Request, the tenant will be issued a voucher which can be used to locate a new unit where the family feels safe. This unit may be within the Housing Division's jurisdiction or if necessary for the safety of the family, in the jurisdiction of another Housing Choice Voucher Program under portability.

**EXHIBIT 13.1: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT**

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the Wichita Falls Housing Department is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

**Protections for Applicants**

If you otherwise qualify for assistance under the Wichita Falls Housing Department, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

**Protections for Tenants**

If you are receiving assistance under the Wichita Falls Housing Department, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the Wichita Falls Housing Department solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

**Removing the Abuser or Perpetrator from the Household**

Your landlord may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If your landlord chooses to remove the abuser or perpetrator, your landlord may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the Landlord must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, your landlord must follow Federal, State, and local eviction procedures. In order to divide a lease, your landlord may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

**Moving to Another Unit**

Upon your request, the Housing Division may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the Housing Division may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the

request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- 2) You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- 3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The Housing Division will keep confidential requests for emergency transfers by victims of

domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The Housing Division's emergency transfer plan provides further information on emergency transfers, and the Housing Division must make a copy of its emergency transfer plan available to you if you ask to see it.

**Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The Housing Division can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the Housing Division must be in writing, and the Housing Division must give you at least 14 business days (Saturdays, Sundays, and Federal holidays not included) from the day you receive the request to provide the documentation. The Housing Division may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the Housing Division as documentation. It is your choice which of the following to submit if the Housing Division asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A completed HUD-approved certification form given to you by the Housing Division with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police

reports, protective orders, and restraining orders, among others.

- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the Housing Division has agreed to accept.
- If you fail or refuse to provide one of these documents within the 14 business days, the Housing Division does not have to provide you with the protections contained in this notice.
- If the Housing Division receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the Housing Division has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the Housing Division does not have to provide you with the protections contained in this notice.

### **Confidentiality**

The Housing Division must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The Housing Division must not allow any individual administering assistance or other services on behalf of the Housing Division (for example, employees and contractors) to have

access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The Housing Division must not enter your information into any shared database or disclose your information to any other entity or individual. The Housing Division, however, may disclose the information provided if:

- You give written permission to the Housing Division to release the information on a time limited basis.
- The Housing Division needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the Housing Division or your landlord to release the information.

VAWA does not limit the Housing Division’s duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the Housing Division cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the Housing Division can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and

- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If the Housing Division can demonstrate the above, the Housing Division should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

#### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

#### **Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with the Oklahoma City HUD field office (405) 609-4800 located at 301 NW 6<sup>th</sup> St #200, Oklahoma City, OK 73102.

#### **For Additional Information**

You may view a copy of HUD's final VAWA rule at:

<https://www.govinfo.gov/content/pkg/FR-2016-11-16/pdf/2016-25888.pdf>

Additionally, the Housing Division must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact the Wichita Falls Housing Department at 940-761-7454, 1800 7<sup>th</sup> St. PO BOX 1431 Wichita Falls TX 76301.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact First Step of Wichita Falls at (800) 658-2683.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at:

<https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

**EXHIBIT 13.2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING AND ALTERNATE DOCUMENTATION**

**Purpose of Form:** The Violence Against Women Reauthorization Act of 2013 (“VAWA”) protects qualified tenants, participants and applicants, and affiliated individuals, who are victims of domestic violence, dating violence, sexual assault, or stalking from being denied housing assistance, evicted, or terminated from housing assistance based on acts of such violence against them.

**Use of Form:** This is an optional form. A PHA, owner or manager presented with a claim for continued or initial tenancy or assistance based on status as a victim of domestic violence, dating violence, sexual assault or stalking (herein referred to as “Victim”) has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. The Victim has the option of either submitting this form or submitting third-party documentation, such as:

1. A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency; or
2. Documentation signed by the Victim and signed by an employee, agent or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom the Victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) that he or she believes that the incident of domestic violence, dating violence, sexual assault, or stalking is grounds for protection under 24 Code of Federal Regulations (CFR) § 5.2005 or 24 CFR § 5.2009.

If this form is used by the Victim, the Victim must complete and submit it within 14 business days of receiving it from the PHA, owner or manager. This form must be returned to the person and address specified in the written request for the certification. If the Victim does not complete and return this form (or provide third-party verification) by the 14th business day or by an extension of the date provided by the PHA, manager or owner, the Victim cannot be assured she/he will receive VAWA protections.

If the Victim submits this form or third-party documentation as listed above, the PHA, owner or manager cannot require any additional evidence from the Victim.

**Confidentiality:** All information provided to a PHA, owner or manager concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking relating to the Victim (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking) shall be kept confidential by the PHA, owner or manager, and such information shall not be entered into any shared database. Employees of the PHA, owner, or manager are not to have access to these details unless to afford or reject VAWA protections to the Victim; and may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) requested or consented to by the Victim in writing; (ii) required for use in an eviction proceeding; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING:**

**Date Written Request Received by Victim:** \_\_\_\_\_

**Name of Victim:** \_\_\_\_\_

**Names of Other Family Members Listed on the Lease:** \_\_\_\_\_

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**Name of the Perpetrator:** \_\_\_\_\_

**Perpetrator's Relationship to Victim:** \_\_\_\_\_

**Date(s) the Incident(s) of Domestic Violence, Dating Violence or Stalking Occurred:**

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**Location of Incident(s):**

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**Description of Incident(s)** (This description may be used by the PHA, owner or management agent for purposes of evicting the perpetrator. Please be as descriptive as possible.):

I hereby certify that the information that I have provided is true and correct and I believe that, based on the information I have provided, that I am a victim of domestic violence, dating violence, or stalking and that the incident(s) in question are bona fide incidents of such actual or threatened abuse.

I acknowledge that submission of false information is a basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Executed on (Date) \_\_\_\_\_

**EXHIBIT 13-3: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS  
OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR  
STALKING FORM (HUD-5383)**

**EMERGENCY TRANSFER  
REQUEST FOR CERTAIN  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing  
and Urban Development**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.
- (2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a

current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

- 1. Name of victim requesting an emergency transfer:** \_\_\_\_\_
- 2. Your name (if different from victim's):** \_\_\_\_\_
- 3. Name(s) of other family member(s) listed on the lease:** \_\_\_\_\_  
\_\_\_\_\_
- 4. Name(s) of other family member(s) who would transfer with the victim:** \_\_\_\_\_  
\_\_\_\_\_
- 5. Address of location from which the victim seeks to transfer:** \_\_\_\_\_  
\_\_\_\_\_
- 6. Address or phone number for contacting the victim:** \_\_\_\_\_  
\_\_\_\_\_
- 7. Name of the accused perpetrator (if known and can be safely disclosed):** \_\_\_\_\_  
\_\_\_\_\_
- 8. Relationship of the accused perpetrator to the victim:** \_\_\_\_\_
- 9. Date(s), Time(s) and location(s) of incident(s):** \_\_\_\_\_  
\_\_\_\_\_
- 10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11.** \_\_\_\_\_

**11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.**

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**12. If voluntarily provided, list any third-party documentation you are providing along with this notice:** \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

## CHAPTER 14. PROJECT-BASED VOUCHER ASSISTANCE

### PART I. GENERAL REQUIREMENTS

#### 14 – I.A. OVERVIEW [24 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contribution contract (ACC) with HUD to take up to 20 percent of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into a HAP Contract (Agreement) or a HAP contract, the PHA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the PHA has vouchers available for project-basing [24 CFR 983.6].

#### Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]

Per HOTMA, the PHA may project-base an additional 10 percent of its units above the 20 percent program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap.

For units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
- Are specifically made available to house families that are comprised of or include a veteran.
  - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates. Only units that are under a HAP

contract that was first executed on or after April 18, 2017, may be covered by the 10 percent exception.

#### **14 – I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]**

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

##### **PHA Policy**

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, The Housing Division's policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

#### **14 – I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]**

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) [42 U.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, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

#### **14 – I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

## **PART II: PBV OWNER PROPOSALS [24 CFR 983 SUBPART B]**

### **14 – II.A. OVERVIEW**

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must 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 project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

### **14 – II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]**

#### **1. Selection Overview**

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

##### **a. PHA request for PBV Proposals.**

The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may 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.

##### **b. The PHA may select proposal that were previously selected based on a competition.**

This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), 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. The PHA need not conduct another competition.

## **2. Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]**

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

### **PHA Policy**

#### **Unit Selection Policy, Advertising, and Owner Application Requirements**

The PHA shall advertise the availability of the Project Based Assistance (PBA) with such advertisements must meet standards comparable to those in 24 CFR 983.51(b). The PHA will advertise in a newspaper of general circulation that the PHA will accept PBV applications. The advertisement will be published once a week for three consecutive weeks: specify an application deadline of at least 30 days after the date of the advertisement is last published. The advertisement will reference the availability of a Request for Proposals (RFP) and the source from whom the RFP can be obtained. The RFP will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available for this purpose: and state that only applications submitted in response to the advertisement will be considered. The RFP will also state the PHA selection policies. In all cases, the PHA will maintain documentation of responses to advertisements or competitive proposals received in response to the PHA notice.

## **3. Selection of Proposals Based on Previous Competition [24 CFR 983.51(b)(2)]**

If sufficient funds are available, the Housing Division may elect to accept proposals for PBV assistance from owners that were competitively selected under another federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), 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.

## **4. PHA Notice of Owner Selection [24 CFR 983.51(d)]**

The PHA will give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection.

### **PHA Policy**

Within 15 business days of the date that the Wichita Falls City Council completes the approval of the selection, the Housing Division will notify the selected owner in writing of the owner's selection for the PBV program. In addition, The Housing Division will post the notice of owner selection on its electronic website. The announcement will include the name of the owner that was selected for the PBV program.

## **14 – II.C. HOUSING TYPES**

### **1. Eligible Housing Types [24 CFR 983.52]**

The PHA may attach PBV assistance for units in existing housing, newly constructed or rehabilitated housing developed under and in accordance with an Agreement to enter into a Housing Assistance Payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

### **2. Ineligible Housing Types [24 CFR 983.53]**

The PHA may not attach or pay PBV assistance for Shared housing; Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institution; Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care. (except that the PHA may attach PBV assistance for a dwelling unit in an assisted living facility); Units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students of the institution; Manufactured homes; and Transitional Housing.

The PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an Agreement or HAP contract for a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing [24 CFR 983.53(a):

- a. A public housing dwelling unit;

- b. A unit subsidized with any other form of Section 8 assistance (tenant-based or project-based);
- c. A unit subsidized with any governmental rent subsidy (a subsidy that pays all or any part of the rent);
- d. A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- e. A unit subsidized with Section 236 rental assistance payments (12 U.S.C. 1715z-1). However, the PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments;
- f. A unit subsidized with rental assistance payments under Section 521 of the Housing Act of 1949, 42 U.S.C. 1490a (a Rural Housing Service Program). However, the PHA may attach assistance for a unit subsidized with Section 515 interest reduction payments (42 U.S.C. 1485);
- g. A Section 202 project for non-elderly persons with disabilities (assistance under Section 162 of the Housing and Community Development Act of 1987, 12 U.S.C. 1701q note);
- h. Section 811 project-based supportive housing for persons with disabilities (42 U.S.C. 8013);
- i. Section 202 supportive housing for the elderly (12 U.S.C. 1701q);
- j. A Section 101 rent supplement project (12 U.S.C. 1701s);
- k. A unit subsidized with any form of tenant-based rental assistance (as defined at 24 CFR 982.1(b)(2)) (e.g., a unit subsidized with tenant-based rental assistance under the HOME program, 42 U.S.C. 12701 *et seq.*);
- l. A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or by the PHA in accordance with HUD requirements. For this purpose, “housing subsidy” does not include the housing component of a welfare payment; a social security payment; or a federal, state, or local tax concession (such as relief from local real property taxes).

**14 – II.D. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, Notice PIH 2013-11, and FR Notice 2/28/20]]**

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.

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements. Subsidy layering requirements apply to new construction and rehabilitation housing that will include forms of government assistance other than PBVs prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements are not applicable to existing housing, when PBV is the only governmental assistance, or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

When the PHA selects a new construction or rehabilitation project, the PHA will require information regarding all HUD and / or other federal, state, or local governmental assistance to be disclosed by the project owner. A list of all required documentation can be found under FR Notice 2/28/20 (Appendix A).

Either HUD or a HUD-approved housing credit agency (HCA) in the PHA's jurisdiction performs the subsidy layering review. The PHA must request an SLR through their local HUD Field Office or, if eligible, through a participating HCA.

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify the PHA. The PHA may proceed to execute an AHAP at that time if the environmental approval is received. 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.

#### **14 – II.E. CAP ON NUMBER OF PBV UNITS [24 CFR 983.56, FR Notice 7/14/17]**

The PHA may not select a proposal to provide PBV assistance for units in a project or enter into an Agreement or HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 25 percent of the number of dwelling units (assisted or unassisted).

##### **1. Exception:**

PBV units are not counted against the 25 percent per project cap in the following cases:

- Units in a single-family building; or
- Units in a multifamily project that are exclusively for elderly and / or disabled families;
- Units in a multifamily project that are for families receiving supportive services;
- If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates,

the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

Regardless, the Housing Division may establish limitations on the number of units and / or the size of projects that will receive PBV assistance. Any such limits shall be identified in the Request for Proposals issued by the Housing Division, or shall be communicated to owners considered for selection under the non-competitive, prior competition method.

## **2. Supportive Services**

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. After April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project but the family does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. The family that resides in the PBV unit must be eligible to receive supportive services, however, the PHA may not require participation in the supportive services as a condition of living in the excepted unit.

The types of services that the Housing Division will deem eligible to qualify a project to meet HUD's definition of families receiving supportive services include, but are not limited to:

- Meal service adequate to meet nutritional need;
- Housekeeping Aid and Household Training (e.g.: homemaking, parenting skills, money management);
- Education counseling-referral to education resources;
- Job readiness and referral to workforce centers;
- Transportation services;
- Referral to support service including but not limited to disabled services, medical / dental services, food banks, nutrition programs, transportation, mental health and substance;

- Abuse programs, etc.; and
- Health-related services such as Substance Abuse Treatment (counseling and treatment for substance abuse)

It is not required that services be provided at or by the project, as long as such services are approved services. The Housing Division will require owners of such projects to submit an Annual Progress Report to ensure compliance with the supportive service exemption on the number of units per building. Failure to submit Annual Progress Reports may result in abatement of the HAP payment.

## **14 – II.F. SITE SELECTION STANDARDS [24 CFR 983.57]**

### **1. General Site Selection Requirements**

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an Agreement or HAP contract for units on the site, unless the PHA has determined that the project-based assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR part 903 and the PHA Administrative Plan. The site must also be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of the Civil Rights Laws, regulations, and Executive Orders, and the PHA administrative plan.

The PHA must consider the following when determining whether a proposed PBV development will be selected:

- 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, the PHA should 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.

### **PHA Policy**

It is the PHA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, the Housing Division will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

## **2. Existing and Rehabilitated Housing Site and Neighborhood Standards**

A site for existing or rehabilitated PBV housing must meet the following site and neighborhood standards:

- a. The site must 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;
- b. 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;
- c. The site 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; and,
- d. The site must be located such 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.

## **3. New Construction Site & Neighborhood Standards**

A site for newly constructed housing must meet the following site and neighborhood standards:

- a. 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.
- b. The site must not be located in an area of minority concentration, except as permitted under paragraph c 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.

- c. A project may be located in an area of minority concentration only if:
  - i. 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
  - ii. The project is necessary to meet overriding housing needs that cannot be met in that housing market area.
  - iii. As used in paragraph (c)(i) above, “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.
  - iv. Units may be considered “comparable opportunities,” as used in paragraph (c)(i) above, 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.
  - v. 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:
    - (1.) A significant number of assisted housing units are available outside areas of minority concentration.
    - (2.) 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.
    - (3.) There are racially integrated neighborhoods in the locality.
    - (4.) Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration
    - (5.) 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.

- (6.) A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs.
- (7.) Comparable housing opportunities have been made available outside areas of minority concentration through other programs.
- vi. 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.
- d. 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.
- e. 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.
- f. 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.
- g. Except for new construction, 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.

### **PHA Policy**

#### **1. Consistency with PHA Plan**

The PHA will submit an attachment to the PHA Plan template, or as an amendment to the PHA Plan, depending on the circumstances, a statement of the projected number of project-based units and general locations and how project basing would be consistent with their PHA Plans.

As with all programs that are covered by the PHA Plan, the PBA will be carried out in conformity with the nondiscrimination requirements specified in the PHA Plan regulations, and will affirmatively further fair housing as required by the PHA Plan regulations.

**2. Consistency with the Goals of Deconcentrating Poverty and Expanding Housing and Economic Opportunities.**

The PHA PBV Program will be consistent with the goals of deconcentrating poverty and expanding housing opportunities. The PHA recognizes the HUD deconcentration of poverty requirements that PBA assistance agreements or HAP contracts be for units in census tracts with poverty rates of less than 20 percent, unless HUD specifically approves an exception.

**3. Partially Assisted Building Requirements**

The PHA will not enter into an agreement or HAP contract to provide PBV assistance for more than 25 percent of the units in any one building, except for single-family dwellings and projects for elderly families and disabled families. In accordance with existing program usage, single-family dwellings refer to 1-4 family dwellings.

**4. Environmental Review [24 CFR 983.58]**

Activities under the PBV program are subject to HUD environmental regulations at 24 CFR parts 50 and 58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and related federal laws and authorities in accordance with 24 CFR 58.5 and 58.6.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 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.

The PHA may not enter into an AHAP contract or a HAP contract with an owner, and PHA, 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 the environmental review is completed and HUD has issued a release of funds.

The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

## **PART III. DWELLING UNITS**

### **14 – III.A. Pre-Selection Inspection [24 CFR 983.103(a)]**

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS.

### **14 – III.B. Lead-Based Paint Requirements [24 CFR 983.101]**

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.

### **14 – III.C. Housing accessibility for persons with disabilities [24 CFR 983.102]**

PBV housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The percentage of accessible dwelling units must comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C. Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

### **14 – III.D. HQS Inspection Requirements [24 CFR 983.101, 983.103, 983.152]**

Housing Quality Standards (HQS) for the tenant-based program generally apply to the PBV Program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

## **PART IV. REHABILITATED AND NEW CONSTRUCTION REQUIREMENTS**

### **14 – IV.A. Agreement to Enter into HAP Contract [24 CFR 983.152, 983.153, 983.154]**

To offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an Agreement with the owner at such time as provided in 24 CFR 983.153. The Agreement

must be in the form required by HUD headquarters (see 24 CFR 982.162). The PHA may not enter into an agreement if commencement of construction or rehabilitation has commenced after proposal submission.

The AHAP shall specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The AHAP shall also specify the deadline for submission by the owner of the required evidence of completion.

#### **14 – IV.B. HAP Contract Information [24 CFR 983.152(d)]**

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

#### **14 – IV.C. Labor Standard [24 CFR 983.154(b)]**

If an AHAP includes the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other

applicable federal labor relations laws and regulations. The Housing Division shall monitor compliance with labor standards.

**14 – IV.D. Equal Opportunity [24 CFR 983.154]**

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

**14 – IV.E. Broadband Infrastructure [24 CFR 983.157]**

Any new construction or substantial rehabilitation, as substantial rehabilitation is defined by 24 CFR 5.100, of a building with more than 4 rental units and where the date of the notice of owner proposal selection or the start of the rehabilitation while under a HAP contract is after January 19, 2017 must include installation of broadband infrastructure, as this term is also defined in 24 CFR 5.100, except where the owner determines and documents the determination that:

1. The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;
2. The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
3. The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

**14 – IV.F. Owner Disclosure [24 CFR 983.154(d) & (e)]**

The AHAP and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs. The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

**14 – IV.G. Evidence of Completion [24 CFR 983.155]**

At a minimum, the owner must submit the following evidence of completion to the Housing Division in the form and manner required by the Housing Division:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the AHAP; and

- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.
- At the PHA's discretion, the AHAP may specify additional documentation that must be submitted by the owner as evidence of housing completion.

#### **14 – IV.H. PHA Acceptance of Completed Units [24 CFR 983.156]**

When the Housing Division has received notice from the owner that the housing is completed, the Housing Division must inspect to determine if the housing has been completed in accordance with the AHAP, including compliance with HQS and any additional requirements imposed under the AHAP.

If the work has not been completed in accordance with the AHAP, the Housing Division shall not enter into the HAP contract.

If the Housing Division determines the work has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion, the Housing Division shall submit the HAP contract for execution by the owner and execute the HAP contract.

### **PART V. HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

#### **14 – V.A. HUD CONTRACT REQUIREMENTS [24 CFR 983.202, 983.203]**

The Housing Division will enter into a HAP contract with an owner for units that are receiving PBV assistance. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract shall be in the form and include all the content required by HUD [24 CFR 983.202(a), 983.203].

#### **14 – V.B. HAP CONTRACT EXECUTION [24 CFR 983.204]**

Before execution of the HAP contract, the Housing Division must inspect each contract unit to determine that the unit complies with Housing Quality Standards (HQS). In the case of existing housing, the HAP contract shall be executed promptly after the PHA selection of the owner proposal and PHA inspection of the housing units. For newly constructed or rehabilitated housing, the HAP contract shall be executed after HHA has inspected the completed units and has determined that the units have been completed in accordance with the AHAP, and the owner furnishes all required evidence of completion.

**14 – V.C. HAP CONTRACT TERM [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]**

Consistent with the law, a HAP contract between the PHA and an owner of housing under this program may have a duration of up to 10 years (as determined by the PHA), subject to the future availability of sufficient appropriated funds under the PHA's consolidated ACC with HUD. Upon expiration of the HAP contract term and consistent with the law, the PHA may agree with the project-based housing owner to extend the HAP contract for such period as the PHA determines appropriate to expand housing opportunities. A HAP contract extension period may not exceed 20 years. All HAP contract extensions must be contingent upon the future availability of appropriated funds.

**14 – V.D. TERMINATION BY PHA – INSUFFICIENT [24 CFR 983.205, FR Notice 1/18/17]**

The HAP contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For the 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.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts. 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, the PHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

**14 – V.E. TERMINATION BY OWNER [24 CFR 983.205]**

If, in accordance with program requirements, the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the Housing Division. In this case, families living in the contract units must be offered tenant-based assistance.

**14 – V.F. STATUTORY NOTICE REQUIREMENTS: CONTRACT TERMINATION OR EXPIRATION [24 CFR 983.206, FR Notice 1/18/17, and Notice PIH 2017-21]**

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may

renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

#### **14 – V.G. REMEDIES FOR HQS VIOLATION [24 CFR 983.208]**

The PHA is required to vigorously enforce the owner's obligation to maintain contract units in accordance with the HQS. The PHA may not make any HAP payment to the owner for a contract unit covering any period during which the contract unit does not comply with HQS. If the PHA determines that a contract unit is not in accordance with the housing quality standards (or other HAP contract requirement), the PHA 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 (See 7 – I.I. for information on Compliance Enforcement).

##### **PHA Policy**

The Housing Division will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program.

#### **14 – V.H. SUBSTITUTION OF CONTRACT UNITS [24 CFR 983.207(a)]**

At the PHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

**14 – V.I. ADDITION OF CONTRACT UNITS [24 CFR 983.207(b), FR Notice 1/18/17 and Notice PIH 2017-21,]**

At the discretion of the PHA, PHAs and owners to amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements (see 24 CFR 983.51(b)) for those added PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and the individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

**PHA Policy**

The Housing Division does not plan to add contract units at this time.

**14 – V.J. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.208 – 983.210]**

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

By execution of the HAP contract the owner certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;

- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

## **14 – V.K. VACANCIES [24 CFR 983.254]**

### **1. Filling Vacancies**

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving the owner notice, the PHA must 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 the PHA waiting list referred by the PHA. The PHA and the owner must make reasonably good faith efforts to minimize the likelihood and length of any vacancy.

### **2. Reducing 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 reasonably good faith efforts of the PHA to fill such vacancies), the PHA 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.

## **14 – V.L. VACANCY PAYMENTS [24 CFR 983.352]**

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The vacancy payment to the owner for each month of the maximum two-month period will be determined by the PHA, 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.

The PHA may make vacancy payments to the owner only if:

1. The owner gives the PHA prompt, written notice in the form and manner required by the PHA 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);
2. 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;
3. The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
4. The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

**PHA Policy**

The owner may be eligible for vacancy payments for a maximum of 60 days.

**PART VI. SELECTION OF PROGRAM PARTICIPANTS**

**14 – VI.A. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251]**

The PHA may select families who are participants in the PHA's tenant-based voucher program and families who have applied for admission to the voucher program. Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program.

For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be re-determined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

**14 – VI.B. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251]**

The Housing Division will use the same waiting list as is used for the tenant-based voucher program. The PHA may adopt a separate project-based waiting list if all PHA tenant-based assistance applicants who seek project-based housing can be placed on this list upon request and without penalty to any other application for assisted housing they may have pending. Subject to its waiting list policies and selection preferences specified in the PHA Administrative Plan, the PHA may place a family referred by an owner on PBV units on its waiting list.

**14 – VI.C. SELECTION FROM THE WAITING LIST [24 CFR 983.251]**

The Housing Division's tenant selection procedures for the HCV program apply for units assisted under the PBV Program. Except for units which are occupied by eligible "in place" tenants upon the commencement of the project-based contract term, when a vacancy exists at a PBV site, the PHA will notify the next families on the waiting list. Applicants on the waiting list will be notified in writing of a vacancy and given the option to apply for the vacant PBV unit or remain on the waiting list. The written notice will inform applicants that the that refusal of the PBV unit will not affect the family's position on the waiting list for HCV assistance.

**14 – VI.D. UNIT ACCESSIBILITY PREFERENCE [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA shall first refer families who require such accessibility features to the owner.

**14 – VI.E. OFFER REFUSAL [24 CFR 983.251(e)]**

If a family refuses the PHA's offer of PBV assistance, such refusal does not affect the family's position on the PHA waiting list for tenant-based assistance.

The PHA may not take any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or
- other factors affecting selection under the PHA's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

**14 – VI.F. OWNER DISSAPPROVAL [24 CFR 983.251(e)(2)]**

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 the PHA waiting list for tenant-based assistance.

## **14 – VI.G. ACCEPTANCE OF OFFER [24 CFR 983.252]**

### **1. Oral Briefing**

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how it determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

### **2. Persons with Disabilities**

If an applicant family's head or spouse is disabled, the PHA shall assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available. The PHA shall refer a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

## **14 – VI.H OWNER SELECTION OF TENANTS [24 CFR 983.253]**

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.

During the term of the HAP contract, the owner must lease contract units only to eligible families selected and referred by the PHA from the PHA waiting list. The contract unit leased to each family must be appropriate for the size of the family under the PHA's subsidy standards and the owner must comply with 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).

## **14 – VI.I TENANT SCREENING [24 CFR 983.255]**

### **1. PHA Responsibility**

The Housing Division does not conduct screening to determine a PBV applicant family's suitability for tenancy. The PHA has no responsibility or liability to the owner or any other person for the family's behavior or suitability for tenancy. The Housing Division will inform owners of their responsibility to screen prospective tenants and provide family's current and prior address (as shown in the PHA records) and the name and address (if known to the PHA) of the landlord at the family's current and any prior address.

## **2. Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- i. Payment of rent and utility bills;
- ii. Caring for a unit and premises;
- iii. Respecting the rights of other residents to the peaceful enjoyment of their housing;
- iv. Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- v. Compliance with other essential conditions of tenancy.

# **PART VII. OCCUPANCY**

## **14 – VII.A. LEASE [24 CFR 983.256]**

### **1. Lease Requirements**

After an applicant has completed the PHA's eligibility and Briefing process, the unit inspection has passed, and the owner has deemed the family suitable for tenancy, the tenant and owner will execute a written lease for the unit. The tenant must have the legal capacity to enter a lease under state and local law. Legal capacity means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease. In all cases, the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

The lease must specify all of the following:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);

- The amount of the tenant rent to owner. The tenant rent to owner is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of what services, maintenance, equipment, and utilities are to be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.

## **2. Tenancy Addendum Requirements**

The tenancy addendum in the lease must state the program tenancy requirements and the composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide). All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

### **14 – VII.B. TERM OF THE LEASE [24 CFR 983.256]**

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause;
- The tenant terminates the lease;
- The owner and tenant agree to terminate the lease;
- The PHA terminates the HAP contract; or
- The PHA terminates assistance for the family.

### **14 – VII.C. TERM OF THE LEASE [24 CFR 983.256]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The re-determined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

#### **14 – VII.D. OWNER TERMINATION & EVICTION [24 CFR 983.257]**

In general, an owner may terminate tenancy for the same reasons as in the HCV program with the exception that in the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

#### **14 – VII.E. ZERO HAP [24 CFR 983.258]**

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

##### **PHA Policy**

If a participating family receiving zero rental assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the Housing Division of the change and request an interim reexamination before the expiration of the 180-day period.

#### **14 – VII.F. REMOVAL OF UNIT DUE TO ZERO HAP [24 CFR 983.211]**

Units occupied by families whose income has increased during their tenancy resulting in the tenant rent equaling the rent to the owner, shall be removed from the HAP Contract 180 days following the last housing assistance payment on behalf of the family. If the project is fully assisted, a PHA may reinstate the unit removed under this section to the HAP contract after the ineligible family vacates the property. If the project is partially assisted, a PHA may substitute a different unit for the unit removed under this section to the HAP contract when the first eligible substitute becomes available. A reinstatement or substitution of units under the HAP contract, in accordance with this section, must be permissible under 24 CFR 983.207. The anniversary and expirations dates of the HAP contract for the unit must be the same as it was when it was originally placed under the HAP contract. The PHA must refer eligible families to the owner in accordance with the PHA's selection policies.

#### **14 – VII.G. SECURITY DEPOSIT [24 CFR 983.259]**

The owner may collect a security deposit that is reasonable and comparable to security deposits collected for similar, unassisted units in the area. The PHA prohibits security deposits in excess of private market practice or in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as

reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease. The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant. If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

#### **14 – VII.H. OVERCROWDED, UNDER-OCCUPIED, AND ACCESSIBLE UNITS [24 CFR 983.260]**

If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

##### **PHA Policy**

The PHA will offer the family continued assistance in the form of PBV assistance in the same building or project. If a unit is not available the PHA will offer tenant-based voucher assistance.

##### **Offer of Other PBV Assistance**

If the PHA offers the family the opportunity for continued housing assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the wrong-sized or accessible unit, at the expiration of a reasonable period as determined by the PHA, and remove the unit from the HAP contract.

##### **Offer of Tenant Based Voucher**

If the PHA offers the family the opportunity to receive tenant-based rental assistance under the voucher program, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration date of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

##### **PHA Policy**

When the PHA offers a family a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period. The PHA may make

exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

### **Unit Reinstatement**

The PHA may reinstate a unit removed under this section to the HAP contract after the family vacates the property.

### **14 – VII.I. FAMILY RIGHT TO MOVE [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice of intent to vacate to the owner in accordance with the lease and provide a copy of such notice to the PHA. If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If voucher assistance is not immediately available upon termination of the family's lease for a PBV unit, the PHA must give the family priority to receive such assistance at the next available opportunity. If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance. VAWA protections apply – see Chapter 13 Part VIII for more information).

### **14 – VII.J. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]**

The PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families,
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project.

If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

A family (or the remaining members of the family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception due to a change in family composition where the family is no longer an elderly or disabled family, the family must vacate the unit within a reasonable period of time established by the PHA and the PHA shall cease paying housing assistance payments on behalf of the non-qualifying family. If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the project in accordance with § 983.207(a) or the owner terminates the lease and evicts the family.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly or disabled family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly or disabled family member or long term or permanent hospitalization or nursing care), the elderly or disabled family member no longer resides in the unit. In this case, the unit may continue to count as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualifying family.

## **PART VIII. RENT TO OWNER**

### **14 – VIII.A. DETERMINING RENT TO OWNER [24 CFR 983.301]**

#### **1. Initial and Redetermined Rents**

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 Agreement 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.

The rent to the owner is also redetermined at the owner's request in accordance with the program requirements, and when there is a 10 percent decrease in the published FMR (See Chapter 14 – VIII.B).

#### **2. Rent Amount**

Except for certain tax credit units, the rent to owner must not exceed the lowest of:

- An amount determined by the PHA, 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;
- The reasonable rent; or
- The rent requested by the owner.

#### **3. Rent Amount for Certain Tax Credit Units**

##### **a. Qualifying Criteria**

Rent determinations under this section only apply if:

- A contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986 (see 26 U.S.C. 42);

- The contract unit is not located in a qualified census tract;
- 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
- The tax credit rent exceeds the applicable fair market rental or any approved exception payment standard).

**b. Rent Amount**

For contract units that meet all of the above criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

**c. Definitions**

A qualified census tract is defined as any census tract in which At least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI) or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

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

**4. Rent Reasonable [24 CFR 983.301 and 983.302]**

The rent to owner for each contract unit may at no time exceed the reasonable rent (See 14 – VIII.C).

**14 – VIII.B. REDETERMINING RENT TO OWNER [24 CFR 983.302]**

The rent to the owner is also redetermined at the owner's request in accordance with the program requirements, and when there is a 10 percent decrease in the published FMR.

**1. Rent Increase**

An owner's request for a rent increase must be submitted to the Housing Division 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The Housing Division may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

## **2. Rent Decrease**

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

- If the PHA has elected within the HAP contract to not reduce rents below the initial rent to owner, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP contract, except:
  - To correct errors in calculations in accordance with HUD requirements;
  - If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55; or
  - If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.

### **PHA Policy**

The Housing Division will not reduce rents below the initial level of the initial HAP contract except where required above.

## **3. Notice of Rent Redetermination**

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined rent. The PHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

### **14 – VIII.C. REASONABLE RENT [24 CFR 983.303]**

#### **1. Comparability Requirement**

At all times during the term of the HAP contract, the rent to the owner for a contract unit may not exceed the reasonable rent as determined by the PHA, except that where the PHA has elected in the HAP contract to not reduce rents below the initial rent under the initial HAP contract, the rent to owner shall not be reduced below the initial rent.

## **2. When Redetermination Are Required**

The PHA must redetermine the reasonable rent:

- Whenever there is a 10 percent 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 1 year before the contract anniversary;
- Whenever the PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- Whenever the HAP contract is amended to substitute a different contract unit in the same building or project; and
- Whenever there is any other change that may substantially affect the reasonable rent.

## **3. How to Determine Reasonable Rent**

The reasonable rent of a contract unit must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent such as the location, quality, size, type, and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

## **4. Owner Certification of Reasonable Rent**

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

## **5. Effect of Rent Control or Other Rent Limits [24 CFR 983.305]**

In addition to the limitation to 110 percent of the FMR in 24 CFR 983.301(b)(1), the rent reasonableness limit under 24 CFR 983.301(b)(2) and 983.303, the rental determination provisions of 24 CFR 983.301(f), the special limitations for tax credit units under 24 CFR 983.301(c), and other rent limits under this part, the amount of rent to owner also may be subject to rent control or other limits under local, state, or federal law.

## PART IX. PAYMENTS TO OWNER

### 14 – IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA 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).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

To receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

### 14 – IX.B. VACANCY PAYMENTS [24 CFR 983.352]

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 the PHA determines that the vacancy is the owner's fault. At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-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 (See 14 – V.K. for more information).

### 14 – IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

#### 1. PHA Determination

The tenant rent is the portion of the rent to owner paid by the family. The PHA determines the tenant rent in accordance with HUD requirements. Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the PHA to the family and the owner.

#### 2. Tenant & PHA Responsibility

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent as determined by the PHA 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. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant. The owner may not terminate the tenancy of an assisted family for nonpayment of the PHA housing assistance payment

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 and the PHA is not responsible for paying the tenant rent, or for paying any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

### **3. Utility Reimbursement**

If the amount of the utility allowance exceeds the total tenant payment, the PHA 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.

The PHA 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. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

#### **PHA Policy**

The PHA will make utility reimbursements directly to the family.

## CHAPTER 15. FOSTER YOUTH TO INDEPENDENCE INITIATIVE

### 15 – A. PROGRAM OVERVIEW [Notice PIH 2020-28; Notice PIH 2021-26; FR Notice 1/24/22]

The FYI initiative allows PHAs who partner with a Public Child Welfare Agency (PCWA) to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental assistance and supportive services are provided to qualified youth for a period up to 36 months.

In addition to providing up to 36 months of rental assistance, the PCWA must provide or secure the youth supportive services to assist the young person on their path to self-sufficiency. Funding is available either competitively through a FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28 or Notice PIH 2021-26, as applicable. Under the noncompetitive process, PHAs are limited to 25 vouchers in a fiscal year with the ability to request additional vouchers for those PHAs with 90 percent or greater utilization or utilization of FYI vouchers, as applicable. For competitive awards, the number of vouchers is dependent on PHA program size and need.

### 15 – B. PARTNERING AGENCY [Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar; Memorandum of Understanding between the PHA / PCWA]

#### a. Public Child Welfare Agency (PCWA)

The PHA must enter into a partnership agreement with a PCWA in the PHA's jurisdiction in the form of a Memorandum of Understanding (MOU) or letter of intent. The PCWA is responsible for identifying and referring eligible youth to the PHA and providing or securing a commitment for the provision of supportive services once youth are admitted to the program.

#### PHA Policy

The Housing Division will implement a Foster Youth to Independence (FYI) program in partnership with Texas Department of Family Protective Services (DFPS) and 2Ingage.

#### b. DFPS & 2INgage Responsibilities

DFPS & 2INgage are responsible for:

- Identifying FYI-eligible youth;
- Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;

- Referring FYI eligible youth to the PHA;
- Providing a written certification to the Housing Division that the youth is eligible; and
- Providing or securing supportive services for 36 months.

## **15 – C. YOUTH ELIGIBILITY CRITERIA [Notice PIH 2021-26; FYI FAQs]**

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. As determined by the PCWA, eligible youth:

1. Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25th birthday);
  - Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution [FYI FAQs].
2. Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576 [FYI FAQs];
3. Are homeless or at risk of becoming homeless at age 16 and older;
  - At risk of being homeless is fully defined at 24 CFR 576.2.
  - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution). Therefore, youth being discharged from an institution may be eligible for a FYI voucher [FYI FAQs].

Eligibility is not limited to single persons. For example, pregnant and / or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements [FYI FAQs].

## **15 – D. SUPPORTIVE SERVICES [Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar; FYI Q&As]**

Supportive services may be provided by the PHA, PCWA or a third party. The PCWA must provide or secure a commitment to provide supportive services for participating youth for the period of 36 months. At a minimum, the following supportive services must be offered:

1. Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
2. Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
3. Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher;
4. Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
5. Educational and career advancement counseling regarding attainment of general equivalency diploma (GED) or attendance/financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

**PHA Policy**

Additional supportive services will not be offered by the PHA.

**15 – E. REFERRALS AND WAITING LIST MANAGEMENT [Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar; FYI FAQs]**

**a. Referrals by the PCWA**

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. Once the PCWA sends the PHA the referral certifying the youth is program-eligible, the PHA determines HCV eligibility.

The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for a FYI voucher based upon their level of need and appropriateness of the intervention.

Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meets eligibility requirements, unless the PCWA has vested another organization with this authority [FYI FAQs].

The PHA is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA [FYI FAQs]. The PCWA is not required to provide the PHA with HCV eligibility documents. Such documentation is ultimately the responsibility of the referred youth.

### **PHA Policy**

The PHA and DFPS have identified staff positions to serve as lead FYI liaisons. These positions will be responsible for transmission and acceptance of referrals. DFPS must commit sufficient staff and resources to ensure eligible youths are identified, prioritized, and determined eligible in a timely manner.

When vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the DFPS liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date DFPS receives this notification, the DFPS liaison must provide the PHA with a list of eligible referrals, a completed release form, and a written certification for each referral indicating the referral is eligible. The list will include the name, address, and contact phone number for each adult individual who is being referred.

The PHA will maintain a copy of each certification from DFPS in the participant's file along with other eligibility paperwork.

#### **b. Waiting List Placement [Notice PIH 2021-26 and FYI FAQs]**

The PHA must use the HCV waiting list for the FYI program. Only youth referred directly by the PCWA may be eligible for a FYI voucher. Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Any youth on the PHA's waiting list that matches with the PCWA's referral must be assisted in the order of their position on the waiting list in accordance with the PHA's admissions policies. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list (pending HCV eligibility determination).

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new referrals. The PHA may reopen the waiting list to accept a FYI eligible youth without opening the waiting list for other applicants, however, this information must be included in the PHA's notice of opening its waiting list (See 4 – I.D. for information on Closing and Reopening the Waiting List).

### **PHA Policy**

Once a referral is received from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the applicant is FYI-eligible.

For those referrals not already on the waiting list, the Housing Division will work with the PCWA or identified partner agency to ensure they receive and successfully complete an application, as applicable. Once the application has been completed, the

Housing Division will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FYI-eligible.

**c. Waiting List Selection**

The PHA selects eligible youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

**15 – F. PHA HCV ELIGIBILITY DETERMINATION [FYI FAQs]**

**1. HCV Eligibility**

Once an eligible youth is selected from the HCV waiting list, the PHA must determine whether the youth meets HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements and HCV eligibility requirements as outlined in Chapter 3 of this plan.

The PCWA may, but is not obligated to, provide information to the PHA on the youth's criminal history.

**PHA Policy**

Should any information be provided by the PCWA, the Housing Division will consider such information in making its eligibility determination in accordance with the PHA's policies as outlined in Chapter 3 of this plan.

**2. Additional Eligibility Factors**

In addition to HCV eligibility, the youth must be no more than 24 years old both at the time of PCWA certification and also at the time of the HAP execution. If a youth is 24 at the time of PCWA certification but will turn 25 prior to the HAP contract execution, the youth is no longer eligible for a FYI voucher.

**PHA Policy**

Applicants that do not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing as described in Chapter 3 – VI.C of this plan.

**15 – G. LEASE UP [FR Notice 1/24/22]**

Once the PHA determines that the PCWA referred youth meets HCV eligibility requirements, the youth will be issued a FYI voucher in accordance with PHA policies as outlined in Chapter 6 of this plan.

### **Turnover [FYI FAQs]**

For PHAs awarded FYI vouchers under Notices PIH 2020-28 and PIH 2021-26, where the recipient of the FYI voucher leaves the program, the PHA must continue to use the FYI voucher for eligible youth upon turnover. Where there are more eligible youth than available FYI turnover vouchers, the PHA may request a FYI voucher under the requirements of Notice PIH 2021-26. If another eligible youth is not available, the PHA must notify HUD, and HUD will reduce the PHA's HCV assistance to account for the removal of the FYI assistance from the PHA's HCV baseline.

### **15 – H MAXIMUM LENGTH OF ASSISTANCE [Notice PIH 2021-26 and FYI FAQs; FR Notice 1/24/22]**

As required by statute, a FYI voucher may only be used to provide housing assistance for a youth for a maximum of 36 months. At the end of the 36-month statutory period the assistance must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward this limitation. It is not permissible to reissue another FYI voucher to the same youth upon expiration of their FYI assistance.

Participants do not “age out” of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

### **15 – I. TERMINATION OF ASSISTANCE [FYI FAQs]**

Termination of a FYI voucher is handled in the same way as with any HCV, therefore, termination of a FYI voucher must be consistent with HCV regulations at 24 CFR Part 982, Subpart L and the Housing Division’s policies as described in Chapter 11. Since FYI vouchers contain a statutory time limit of 36 months, the Housing Division must terminate the youth’s assistance once the limit on assistance has expired.

A PHA cannot terminate a FYI youth’s assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FYI youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance, however, the PHA may issue a regular HCV to FYI voucher holders if they were selected from the waiting list in accordance with PHA policies. The PHA may also adopt a waiting list preference for FYI voucher holders who are being terminated for this reason.

**PHA Policy**

The Housing Division provides a selection preference on the Housing Division's HCV waiting list for FYI voucher holders who are terminated due to the time limit on assistance. See Chapter 4 – II.B. For more information regarding Waiting List Preferences.

**15 – J. PORTABILITY [FYI FAQs]**

Portability for a FYI youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FYI youth for reasons other than those specified in the HCV program regulations, as discussed in Chapter 10 Part II of this plan.

A FYI youth does not have to port to a jurisdiction that administers FYI vouchers. If the receiving PHA absorbs the voucher, the PHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth becomes a regular HCV participant with none of the limitations of a FYI voucher.

The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

**15 – K. PROJECT-BASING FYI VOUCHERS [FYI FAQs; FR Notice 1/24/22]**

The PHA may project-base certain FYI vouchers without HUD approval in accordance with all applicable PBV regulations and PHA policies in Chapter 14. This includes FYI vouchers awarded under Notices PIH 2020-28 and PIH 2021-26. Assistance awarded under Notice PIH 2019-20 is prohibited from being project-based.

**PHA Policy**

The Housing Division may elect to project-base FYI vouchers.

## **APPENDIX - HOUSING OPPORTUNITY THROUGH MODERNIZATION ACT (HOTMA)**

### **APPENDIX OVERVIEW**

Upon the Implementation of HOTMA, the following information in this appendix will automatically replace their respective Chapters in the main body of this Administrative Plan. All information is subject to change based on Federal Regulation and HUD guidance. The Housing Division will update this Plan and its policies as needed to reflect any subsequent guidance released by HUD pertaining to HOTMA, the Final Rule, and other related regulatory requirements.

### **CHAPTER 3 – ELIGIBILITY**

**[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]**

### **CHAPTER OVERVIEW**

The City of Wichita Falls Housing Division is responsible for ensuring that every family admitted to the Housing Choice Voucher (HCV) program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide all information needed by the Housing Division to confirm eligibility and determine the level of the family's assistance.

The Housing Division accepts applications only from families whose head or spouse is at least 18 years of age or is an emancipated minor under State law.

To be eligible for participation, an applicant must meet the Department of Housing & Urban Development's (HUD) criteria, as well as any permissible additional criteria established by the Housing Division. The HUD eligibility criteria are listed below and described in detail throughout this Chapter.

The HUD eligibility criteria are:

- I. Qualify as a family as defined by HUD and the Housing Division;
- II. Be income eligible;
- III. Furnish Social Security Numbers for all family and household members.
- IV. Qualify on the basis of citizenship or the eligible immigrant status.
- V. Provide information required by HUD and the PHA when requested, cooperate in efforts to verify the information provided and consent to the Housing Division's collection and use of family information as provided for in Housing Division-provided consent forms

VI. The Housing Division must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the Housing Division.

The family's initial eligibility and evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for the final eligibility processing for issuance of a Voucher.

## **PART I: FAMILY DEFINITIONS**

### **3 – I.A. FAMILY ELIGIBILITY REQUIREMENT**

To be eligible for assistance, the applicant must qualify as a family. A family may be a single person or a group of persons. The terms family and household have different meanings in the HCV program. [24 CFR 982.201]

### **3 – I.B. FAMILY AND HOUSEHOLD [24 CFR 5.403, 5.504, 24 CFR 5.603]**

A **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:
  - i. A family with or without children (a child who is temporarily away from the home because of placement in a foster care is considered a member of the family);
  - ii. An elderly family;
  - iii. A near elderly family;
  - iv. A displaced family; and
  - v. The remaining member of a tenant family.
3. A single person who:
  - iv. Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
  - v. Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
  - vi. Is homeless or is at risk of becoming homeless at age 16 or older.

**PHA Policy:**

HUD regulations (CFR 982.201) require that the Housing Division determine if any other group qualifies as a family. The City of Wichita Falls also defines a family as:

- Two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who either can demonstrate that they have lived together previously in a stable relationship or certify that each individual's income and other resources will be available to meet the needs of the family.
  - Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

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

The **Head of Household** is the adult member of the household who is designated by the family as the head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/Local law. Emancipated minors who qualify under State law will be recognized as head of household.

**Spouse** means the husband or wife of the head of household.

For proper application of the Non-Citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

**Co-Head** means an individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

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

A **Full-Time Student (FTS)** is a person who is attending school or vocational training on a full-time basis. The educational institution defines the time commitment or subject load that is needed to be full-time. Identifying each FTS is important because: (1) each family member that is a FTS, other than the head, spouse, or co-head, qualifies the family for a dependent allowance, and (2) the earned income of such a FTS is treated differently from the income of other family members.

A **Minor** is defined as a member of the family, other than the head of household or spouse, who is under 18 years of age.

**3 – I.C. ELDERLY AND DISABLED FAMILIES [24 CFR 5.100, 5.403, FR Notice 02/03/12]**

A "family" may be a single person or a group of persons. The definitions related to "elderly" and "disabled" families are as follows:

**Elderly Person** means a person who is at least 62 years of age.

**Elderly family** means a family whose head (including co-head), spouse, or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Near-elderly family** means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more live-in aides.

A **Person with Disabilities** means a person who has a disability and is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration, which substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions, or has a developmental disability as defined in 42 USC 6001. A person with disabilities includes an individual with handicaps as defined in 24 CFR 8.3.

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

**Live-in Aide**

A Family may include a live-in aide provided that such live-in aide:

- Is determined by the Housing Division to be essential to the care and well-being of an elderly person, a near-elderly person, or a person with disabilities,
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

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

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.
- Live-in aides are not subject to Non-Citizen Rule requirements.
- Live-in aides may not be considered as a remaining member of the tenant family.

- Live-in aids must be considered for bedroom size requirements for a unit under HQS space standards.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

A live-in aide may only reside in the unit with the approval of the Housing Division. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly or disabled.

The Housing Division will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 2 of this Plan.

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

- The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the Housing Division or to another Housing Division in connection with HCV or public housing assistance under the 1937 Act.

### **3 – I.D. FOSTER CHILDREN AND ADULTS [24 CFR 5.603]**

**Foster Child** is defined a child (under the age of 18) who is in the managing conservatorship of the Department of Family and Protective Services. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

**Foster Adult** is defined as a member of the household who is 18 years of older, who is unable to live independently due to a debilitating physical or mental condition and is therefore placed with a family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

Foster adults/children are not considered family members and must not be included in calculations of income for eligibility and rent determination purposes. Foster adults/children are, however, considered household members and must be included when determining unit size or subsidy standards based on established policies.

Foster children and foster adults must be approved by the Housing Division to live in the household prior to an applicant's admission to the program. Foster children and foster adults

must also be approved by the Housing Division prior to being added to an active participant's household.

**PHA Policy**

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

**3 – I.E. DEPENDENT [24 CFR 5.603, PIH NOTICE 2023-27]**

A dependent is defined as a member of the family (which excludes foster children and foster adults) other than the family head or spouse who is under 18 years of age, or is a person with a disability, or is a full-time student.

**3 – I.F. SPECIAL CIRCUMSTANCES**

**1. Family Break-Up (Family Dissolution) [24 CFR 982.315]**

**a. Family Dissolution Prior to Voucher Issuance:**

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and a court has determined the disposition of property between family members of the assisted family, the Housing Division is bound by the court's determination of which family members continue to receive assistance. In circumstances where there is no court determination, the PHA has discretion on which members of an assisted family may continue to receive assistance after a family breaks up.

**PHA Policy**

The Housing Division will make the decision of who will remain on the waiting list taking into consideration the following factors:

- Which family member applied as head of household
- Which family unit retains the children or any disabled or elderly members
- The role of any domestic violence in the split
- Recommendations of social service agencies or qualified professionals such as children's protective services

Only one of the new families may retain the original application date. Other former family members may make a new application with a new application date, if the waiting list is open.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the Housing Division. If the family breakup results from an occurrence of domestic violence, dating violence, or stalking, the Housing Division must ensure that the victim retains assistance, as long as the family meets the documentation requirements.

**b. Family Dissolution While Active On the Program:**

HUD regulations at 24 CFR 982.315 require that the PHA determine which family member will be the remaining family member who will continue to receive the rental assistance in the case of family breakup except in cases where the family break-up results from an occurrence of domestic violence, dating violence, sexual assault, or stalking as provided in 24 CFR part 5, subpart L. For families that break up as a result of domestic violence, the PHA must ensure that the victim retains assistance.

**PHA Policy**

In cases of mutual separation, the assistance will stay with the family member that retains custody of the children. If two family members (no children) split under mutual agreement, the person remaining in the unit will continue to receive the assistance. If a court has determined that one member of the family will receive the housing, the court ruling will bind the PHA.

**2. Multiple Families in the Same Household**

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

**3. Joint Custody of Children**

**PHA Policy**

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

When both parents are on the waiting list and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

## PART II. INCOME AND ELIGIBILITY TARGETING

### 3 – II.A. INCOME LIMITS [24 CFR 5.603, HCV Guidebook]

**Income Limits:** HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. Income Limits are based on the median family income with adjustments for family size. HUD requires that families must have income at or below HUD-specified income limits. Income Limits are used for eligibility only at admission (See Chapter 5 for information on how income is verified and calculated).

**Very low-income family** means a family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size. All new participants must be meet the definition of very low income.

**Extremely low-income family** means a very low-income family whose annual income does not exceed the higher of:

1. The poverty guidelines established by the Department of Health and Human Services applicable to the family of the size involved (except in the case of families living in Puerto Rico or any other territory or possession of the United States); or
2. Thirty (30) percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 30 percent of the area median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

### 3 – II.B. INCOME TARGETING REQUIREMENT [24 CFR 982.201]

Seventy-five (75) percent of all new families admitted to the program during any fiscal year shall be from the extremely low-income group (30% of less of the AMI) to comply with 24 CFR 5.201 (b)2(i). If an applicant has an income change (either increase or decrease) between the issuance of a voucher and lease-up, the income at lease up is the income that is used toward the income targeting requirements.

Lower income families (80% of median) that have been **continuously assisted** since July 1984 can still continue to be assisted. Special Admissions, Prepays and Opt-Outs, and other families for which HUD has provided targeted vouchers are not calculated in the 75% targeting requirements.

### **3 – II.C. CONTINUOUSLY ASSISTED [24 CFR 982.4]**

24 CFR 982.4 defines “continually assisted” as an applicant that was already receiving assistance under any 1937 Housing Act Program when the family was admitted.

#### **PHA Policy**

Continuously assisted families include those who have been displaced from public housing or families issued vouchers because of project-based program REAC failures or owner opt outs, etc.

### **3 – II.D. RESTRICTIONS ON STUDENT ELIGIBILITY [24 CFR 5.612 and FR Notice 4/10/06, FR Notice 9/21/16]**

#### **1. Students of Higher Learning Eligibility**

Students at institutions of higher education who are applying for housing and who will not reside with their parents must meet additional eligibility criteria. These rules apply regardless of whether the student is considered a full-time or part-time student.

Assistance shall only be provided to students who are otherwise eligible for the program and meet at least one of the following criteria. The student:

- Is 24 years of age or older;
- Is a veteran of the United States Military service;
- Is married;
- Has a dependent child;
- Is a person with disabilities who was receiving HCV assistance as of November 30, 2005; or
- Is a graduate or professional student; or
- Is individually income eligible and the student’s parents are individually or jointly income eligible;
- Or is an independent student, defined as:
  - a) The individual is 24 years of age or older by December 31 of the award year;
  - b) The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care or a ward of the court at any time when the individual was 13 years of age or older;

- c) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.
- Or, is classified as a Vulnerable Youth. A student meets HUD's definition of Vulnerable Youth when the individual has been verified during the school year in which the application is submitted as either an "unaccompanied youth" who also falls within the definition of "homeless children and youths" (as such terms are defined in Section 725 of the McKinney-Vento Homeless Assistance Act), or as unaccompanied youth (as defined in Section 725 of the McKinney-Vento Homeless Assistance Act), who are at risk of homelessness and self-supporting, by:
  - a) A local educational agency homeless liaison, designated pursuant to the McKinney-Vento Homeless Assistance Act;
  - b) The director of a program funded under the Runaway and Homeless Youth Act or designee of the director;
  - c) The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director or
  - d) A financial aid administrator.
- Or, the individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

For purposes of the student eligibility restrictions, the term "parents" means the biological or adoptive parents, or guardians (e.g., stepparents, grandparents, aunt/uncle, godparents, etc.).

## **2. Student Income Eligibility**

If an individual is enrolled as a student at an institution of higher education and does not meet one of the above requirements, the student and his / her parents income collectively must be eligible for the HCV program.

## **3. Noncitizen Students [24 CFR 5.522, 42 USC 1436]**

Noncitizen students, even those with eligible immigration statuses for the purposes of HUD's financial assistance are not eligible to receive housing assistance.

A **noncitizen student** is a bona fide student who:

- Is pursuing a course of study in this country;
- Has a residence in another country outside of the United States that the person has no intention of abandoning; and

- Is admitted to this country temporarily, solely for the purpose of studying.

When a noncitizen student is accompanied by a noncitizen spouse and / or noncitizen minor children, those family members are also ineligible for assistance. If the noncitizen student and noncitizen spouse have citizen children, the whole family is still ineligible for assistance. However, if a non-citizen student has a citizen spouse, the citizen spouse and children if any, would be eligible for assistance. In that case, assistance would be prorated to ensure that assistance goes only to those family members with eligible immigration status.

### **3 – II.E. LIMITATIONS ON ASSETS [24 CFR 5.100, 5.618, PIH NOTICE 2023-27]**

#### **1. Limitation**

Per requirements in Section 104 of HOTMA, 24 CFR 5.618 creates a restriction on the eligibility of a family to receive assistance at eligibility or upon reexamination if the family:

- i. Has assets in excess of \$100,000, as adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, or
- ii. Owns real property that is suitable for occupancy by the family as a residence.

#### **2. Suitable for Occupancy Definition [24 CFR 5.618]**

A property will be considered *suitable for occupancy* unless the family demonstrates that the property:

- i. Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation);
- ii. Is not sufficient for the size of the family (based on HQS space standards);
- iii. Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the Housing Division or owner);
- iv. Is not safe to reside in because of the physical condition of the property (e.g., properties physical condition possesses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- v. Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

### **3. Real Property Restriction Exception [24 CFR 5.618]**

This real property restriction does not apply to:

- i. Any property for which the family is receiving assistance under 24 CFR 982.620 or under the Homeownership Option in 24 CFR Part 982;
- ii. Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- iii. Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking as defined in 24 CFR 5, Subpart L; or
- iv. Any family that is offering such property for sale.

### **4. Documentation [24 CFR 5.618]**

A PHA or owner may determine the net assets of a family based on a certification by the family that the net family assets (as defined in 24 CFR 5.603) do not exceed \$50,000 (an amount that will be adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) without taking additional steps to verify the accuracy of the declaration. The declaration must state the amount of income the family expects to receive from such assets; this amount must be included in the family's income.

(2) A PHA or owner may determine compliance with 3 – II.E(i)(2) of this section based on a certification by a family that certifies that such family does not have any present ownership interest in any real property at the time of the income determination or review.

#### **PHA Policy**

The Housing Division makes use of county appraisal information or other similar documentation to verify ownership of real property.

(3) When a family asks for or about an exception to the real property restriction because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA or owner must comply with the confidentiality requirements under 24 CFR 5.2007. The PHA or owner must accept a self-certification from the family member, and the restrictions on requesting documentation under 24 CFR 5.2007 apply.

### **5. Enforcement [24 CFR 5.618]**

Upon implementation of HOTMA, no new families who fall under this restriction may be admitted to the program.

For those currently on the program, the PHA may delay for a period of not more than 6 months the initiation of termination proceedings of a family based on noncompliance under this provision unless it conflicts with other provisions of law.

## **PART III. SOCIAL SECURITY NUMBERS [24 CFR PART 5 SUBPART B]**

### **3 – III.A SSN DISCLOSURE REQUIREMENTS**

Applicants and participants must disclose social security numbers (SSN) as well as the documentation necessary to verify each SSN for all household members.

Acceptable SSN Verification documentation may include:

- An original SSN card issued by the Social Security Administration (SSA),
- Original document issued by the SSA that shows the person's full name and full SSN (such as an SSA award letter, Medicare card, etc), or
- An original document issued by a federal, state, or local government agency that contains the full name and full SSN of the individual (such as an unemployment insurance printout, welfare or Medicaid documents, etc).

The PHA must only reject these documents if they are not original, they appear to be forged, or the original document has been altered, mutilated or illegible. The Housing Division must also validate SSNs through the Enterprise Income Verification system (EIV).

Social Security Numbers are required to be provided, by the family, for all family members, except for ineligible non-citizens. Applicants may not become participants until the documentation is provided, but they may retain their place on the waiting list during the period they are awaiting verification.

#### **1. Children Under Age 6 Added to Applicant Families [24 CFR 5.216, PIH Notice 2016-05(ha)]**

If the applicant family adds a child under age 6 to their household within six months of voucher issuance, the family may be admitted to the program before the SSN documentation is submitted. The family has 90 days from the date of admission, which is the HAP contract effective date, to provide the required documentation to the PHA. The PHA must allow one additional 90-day period if the applicant family experienced delays that were out of its control.

#### **2. SSN Disclosure Requirements for New Household Members to Active Participant Household. [24 CFR 5.216]**

In order to add new household members over age 6 or new household members 6 and under who already have an SSN to a participant household, the family must disclose and

document the new member's SSN before adding the new member to the assisted household. If a member, six years of age or older, does not have an SSN, the member must obtain one (unless he or she is a non-contending family member). The family must disclose and document the new member's SSN prior to adding the new member to the assisted household.

### **3. Children Under Age 6 Added to Participant Households [24 CFR 5.216]**

When adding a new household member who is under six years old and does not have a SSN (for example a newborn), the participant must disclose and document the SSN for the new member within 90 days of the child's addition to the household. The housing division may grant a 90-day extension if the failure to provide information was beyond the family's control (for example, the delay was due to delayed processing by the Social Security Administration (SSA), a natural disaster, or a death in the family). A PHA must add the child to the assisted household pending submission of the SSN and the family must receive all associated benefits and deductions. For submissions to the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC) system, PHAs must assign an "alternate ID" to the child. PHAs must later replace the alternate ID with the child's assigned SSN.

## **PART IV. CITIZENSHIP / ELIGIBLE IMMIGRATION STATUS.**

**[64 FR 25726-25733 (May 12,1999): 24 CFR part 5 subpart E]**

### **3 – IV.A. OVERVIEW**

Housing assistance is available only to individuals who are citizens of the United States or are noncitizens who have eligible immigration status. At least one family member must be a citizen or noncitizen with eligible immigration status to qualify for any level of assistance.

### **3 – IV.B. MIXED FAMILY**

A **mixed family** is a family that includes both eligible individuals and ineligible individuals. Mixed Families may qualify for pro-rated assistance if at least one member is a U.S. citizen or has eligible immigration status.

### **3 – IV.C. VERIFICATION REQUIREMENTS**

Every applicant and participant in the voucher program must sign a certification for every household member either claiming status as:

- A U.S. citizen
- An eligible alien, or

- Stating the individual's choice not to claim eligible status and acknowledge ineligibility.

## **1. U.S. Citizens**

For household members claiming U.S. citizenship, only a declaration signed by the household member is required. For an adult, the adult must sign the declaration. For a child, the declaration must be signed by an adult (who will be residing in the unit) who is responsible for the child. All new adult and child additions to the household must have their status determined prior to admission to the household.

### **PHA Policy**

The Housing Division also requires the following additional documentation:

- A valid State Issued ID for all adult members,
- Original Birth Certificate or Original unexpired United States Passport, and
- Original Certificate of Naturalization (if applicable).

## **2. Non-Citizens [24 CFR 5.508]**

Non-citizens claiming eligible status must provide all of the following evidence:

- The signed declaration of eligible immigration status;
- One of the INS documents specified in the rule;
- A signed verification consent form describing transmission and use of the information obtained.

In addition to this supporting documentation, the Housing Division is required to verify eligible immigration status through the U.S. Citizenship and Immigration Service (CIS). The primary method of verification is through the CIS automated system. If the primary verification system does not confirm eligible immigration status or verifies immigration status that is ineligible for assistance, the PHA must attempt a secondary verification of a manual records check by the CIS. The PHA must submit a request for secondary verification to CIS within 10 days of receiving the results of the primary verification. To request a secondary verification, the PHA will forward photocopies of the original required documents with the form G-845S Document Verification Request (or its successor).

If the primary and secondary verification methods do not confirm eligible immigration status, the Housing Division must notify the family in writing and offer the family the right to an appeal with the CIS. If the Family wants to exercise its right of appeal with the CIS, the family must submit a written request for an appeal to the CIS within 30 days of the date of the PHA notification.

To appeal, the following steps must be taken by the family:

- Include with the appeal request: a cover letter and any support documentation, as well as a copy of the verification request form (CIS Form G-845S) which was submitted by the PHA for the secondary verification request;
- Provide the PHA with a copy of the request for appeal with the CIS and proof of mailing (e.g., USPS Certified Mail®, a service that provides the sender with a mailing receipt); and
- Provide any additional documentation that the CIS may request.

Within 30 days the CIS must render its decision to the family and forward a copy to the PHA (or provide notice of the reasons for any delay). See Chapter 12 Part IV for more information on Non-Citizen Appeals.

### **3. Extensions [24 CFR 5.508]**

The PHA must provide an extension of up to 30 days to submit evidence of eligible status if the family submits the declaration of eligible immigration status and certifies that the family needs more time because the required evidence is temporarily unavailable. To obtain an extension, the family must also certify that prompt and diligent efforts will be undertaken to obtain the evidence.

Upon determining if the extension request meets the requirements, the PHA must inform the family, in writing, whether its request for a time extension has been granted or denied. If granted, the notice must state the specific period of the extension. If the extension request is denied, the notice must explain the reasons for the denial.

### **3 – IV.D. INELIGIBLE NON-CITIZENS [24 CFR 5.508, HCV GB]**

Household members who do not sign a declaration of their status or provide the required supporting proof of citizenship / immigration status will be considered ineligible noncitizens. Ineligible non-citizens do not qualify for housing assistance.

### **3 – IV.E. DELAY, DENIAL, OR TERMINATION OF ASSISTANCE [24 CFR 5.508, 5.514]**

The PHA must not delay, deny, or terminate assistance to an applicant or participant on the basis of ineligible immigration status of a family member if any of the following circumstances apply:

- At least one person in the household is a U.S. citizen or an eligible noncitizen who has been verified by CIS;

- The family has submitted the required documents to the PHA timely, but the primary and secondary verification processes has not been completed;
- The family member whom the PHA has not determined eligible moves out of the household;
- The CIS appeals process has not been completed;
- Assistance is prorated, and the family is not receiving assistance for the family member(s) whose eligible immigration status has not been verified; or
- For a program participant, the informal hearing process is not complete.

**Assistance must be denied or terminated when:**

- The family has not submitted the declaration of citizenship or eligible immigration status and appropriate documentation by the specified deadline or any extension;
- The family has submitted required documentation, but CIS primary and secondary verification do not verify immigration status and the family does not pursue CIS or PHA appeal;
- The family has submitted required documentation, but CIS primary and secondary verification do not verify immigration status, and CIS or PHA appeal is pursued but decision(s) are rendered against the family; or
- The PHA determines that a family has knowingly permitted an ineligible person to live in the assisted unit. In this case, the PHA must terminate assistance for at least 24 months. This does not apply if the ineligibility of the ineligible individual was considered in calculating any proration of assistance provided for the family.

**3 – IV.F. NOTIFICATION OF DENIAL DUE TO CITIZENSHIP STATUS [24 CFR 5.512, 5.514]**

When the PHA decides to deny or terminate assistance, the PHA must send a written notice to the household, which includes the following:

- A statement that financial assistance will be denied or terminated and the justification;
- Notification that the family may be eligible for prorated assistance if it is a mixed family;
- In the case of a currently assisted household, the procedures for requesting proration of assistance;

- The right to appeal the results of the secondary verification to the CIS and how to appeal; and
- The right to request an informal hearing from the PHA in lieu of or after a CIS appeal.

In the case of applicants, the notice may advise that assistance may not be delayed during the informal hearing process.

## **PART V- VERIFICATION REQUESTS AND CONSENT TO RELEASE INFORMATION**

**[24 CFR 982.551, 5.216, 982.201, 5.230]**

### **3 – V.A. GENERAL VERIFICATION REQUIREMENTS**

Participant families must provide information required by HUD and the PHA when requested, and cooperate in efforts to verify the information provided.

### **3 – V.B. CONSENT TO RELEASE INFORMATION**

The Housing Division must require all applicants and participants (regardless of age who are or will subsequently become a family member as the head of household, co-head of household, and/or spouse), to sign the HUD-9886 Authorization for the Release of Information/Privacy Act Notice (form HUD-9886) as a condition for admission and continued assistance.

Upon the implementation of HOTMA, HUD regulations require that all applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income reexamination.

After an applicant or participant has signed and submitted a consent form either on or after January 1, 2025, they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the PHA in administrative instructions.

#### **PHA Policy**

When any person 18 years or older becomes a member of the family or an existing member of the family turns 18 years of age, the family is responsible for ensuring that the adult member signs the required form HUD-9886 and submits said form to the Housing Division within 30 days of the date of the change.

These consent forms contain provisions authorizing HUD and the PHA to obtain necessary information for verification of an application or to maintain a family's assistance, including income information and tax return information. The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA to revoke consent. If a family voluntarily leaves a HUD program, the family's assistance is considered to be terminated and the signed consent forms will no longer be in effect.

HUD will publish a new form HUD-9886-A and is updating forms HUD-9887 and HUD-9887-A (Fact Sheet) to conform with the final rule. HUD will include language in the forms allowing PHAs to obtain financial records from financial institutions whenever the PHA determines that such a record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

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

## **PART VI: TENANT SCREENING AND DENIAL OF ASSISTANCE**

### **3 – VI.A. TENANT SCREENING [24 CFR 5.856, 5.905, PIH Notice 2012-28]**

The Housing Division is required to conduct criminal background screenings on all adult household members. Prior to lease up, all tenants are required to be screened for a listing under the Sex Offenders Act and a criminal records check with local law enforcement agencies will be conducted. All household members must provide a list of all states in which they have lived within the last 10 years and whether their name appears on any lifetime sex offender registry. A separate consent form for the police records check must be signed by all tenants over 18 years of age or at re-certification time for those that have reached 18 years of age during that period. Families are encouraged to avoid delays by gathering the verification required ahead of the actual certification date. The staff will provide reasonable accommodation to aid persons with handicaps or disabilities that need assistance in the completion of the authorization forms.

The Housing Division must also utilize EIVs Debts Owed to PHAs & Terminations Report to identify tenant debts to PHA's nationwide and to review previous reasons for terminations to determine if the termination reason falls under HUD or the Housing Divisions required reasons for denial of assistance.

### **3 – VI.B. DENIAL OF ASSISTANCE**

Federal regulations dictate mandatory reasons for denial of assistance. Should a family not meet the eligibility criteria as laid out in Parts I – V of this chapter, the family must be denied assistance. HUD also lays out mandatory Tenant Screening and Denial of Assistance regulations and gives the Housing Division latitude for selecting additional criteria.

#### **1. Forms of Denial [24 CFR 982.552; HCV GB]**

Denial of assistance may include any of the following:

- Denial of listing on the Housing Division's waiting list,
- Denial or withdrawal of a voucher,
- Refusal to enter into a HAP contract or approve a lease, and
- Refusal to process or provide assistance through portability.

#### **2. Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]**

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

- Age, disability, race, color, religion, sex, national origin, sexual orientation, or gender identity;
- Where a family lives prior to admission to the program;
- Where the family will live with assistance under the program (although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the Housing Division's jurisdiction under portability);
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
- Whether the family includes children;
- Whether a family decides to participate in a family self-sufficiency program;
- Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant is otherwise qualified for assistance.

### **3. HUD Mandated Reasons for Denial of Assistance**

The Housing Division is required by HUD to deny admission for the following specific types of criminal activity or alcohol abuse. Denial is required when:

- 1) A household member has been evicted from federally assisted housing within the last three years for drug-related criminal activity.
  - The PHA may admit the family if it determines that the household member who engaged in the activity has been successfully rehabilitated, or the circumstances no longer exist (because, for example, the household member is dead or in prison)
- 2) The PHA determines that a household member is currently illegally using a controlled substance or such household member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, is determined by the PHA to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The PHA may consider whether such household member has taken steps to rehabilitate or has been rehabilitated and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.
  - i. Any household member has been convicted of the manufacture of methamphetamine on the premises of federally assisted housing.
  - ii. Any household member is subject to a lifetime sex offender registration requirement.

If the Housing Division denies admission based on a criminal conviction record, the PHA will notify the family of the pending denial action and give the family 10 business days to dispute the accuracy and/or relevance of the record. A copy of the criminal conviction record must be provided to the head of household and to the subject of the record (if different) at this time. If the family does not dispute the record, or if the family disputes the record and the PHA does not agree, the regular denial notice is sent.

### **4. Removal of a Family Member's Name from the Application**

Should the Housing Division's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration; the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the Housing Division may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)].

### **PHA Policy**

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

After admission to the program, the family must present evidence of the former family member's current address upon the Housing Division's request.

### **3 – VI.C. NOTICE OF DENIAL OF ASSISTANCE**

If the Housing Division determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 12 for information on Informal Reviews.

If the Housing Division obtains criminal record or sex offender registration information under 24 CFR Part 5, Subpart J which renders the family ineligible for housing assistance, the PHA must notify the household and must provide the subject of the record and the applicant or tenant a copy of such information. The Housing Division must also provide the family an opportunity to dispute the accuracy and relevance of the information. This opportunity must be provided before the notice of denial of assistance [24 CFR 5.903(f) and 5.905(d)].

### **PHA Policy**

Should an applicant family appear to be ineligible due to a criminal record or sex offender registration information, the Housing Division will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 calendar days from the date of the notice to dispute the accuracy and relevance of the information. If the family does not contact the Housing Division within the 10-day period, the Housing Division will proceed with issuing the notice of denial of admission.

### **3 – VI.D. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING**

The Violence against Women Act of 2005 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit the Housing Division from denying an applicant admission to the HCV program on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking, if the applicant otherwise qualifies for assistance or admission.

#### **1. Notification**

The Housing Division acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a

record of previous damage to an apartment, a prior arrest record) that would warrant denial under the Housing Division's policies. Therefore, if the Housing Division makes a determination to deny assistance to an applicant family, the Housing Division will include in its notice of denial VAWA information and will request that an applicant wishing to claim protection under VAWA notify the Housing Division within 10 business days.

## **2. Victim Documentation [24 CFR 5.2007]**

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, or stalking, the Housing Division will request in writing that the applicant provide documentation supporting the claim. See Chapter 13 Part VIII for more information on VAWA.

### **3 – VI.E. APPLICANT'S GRIEVANCE PROCEDURES [Source: 24 CFR 982.554]**

Anyone found to be ineligible when their name comes to the top of the list will be notified, in writing, at the address they furnished on the application. The notification shall include information for requesting an informal review. The request for an informal review may be submitted to the Housing Department by completing the Grievance Packet. The Grievance Packet must be submitted in writing to the Housing Division within 10 business days of the date of the Ineligibility letter.

Applicants shall have the right to an informal review for most decisions made by the PHA during the application and eligibility determination process. During the informal review, the applicant will be given the opportunity to present written or oral objections to the Housing Division's decision. The Housing Division will notify the applicant of its final decision after the informal review, including a brief written statement of the reasons for the final decision. (See Chapter 12 Part I for more information on Informal Reviews.)

## CHAPTER 5 INCOME, VERIFICATIONS AND SUBSIDY DETERMINATION

[24 CFR Part 5, Subparts E and F; 24 CFR 982, 153, 982.551]

### PART I. ANNUAL INCOME

Income sources are defined by federal regulations. Exceptions and exclusions are listed and updated by HUD on a regular basis. HUD publishes tables on Annual Median Family Income, adjusted for family size, on an annual basis. The methods of calculating the Total Tenant Payment and family's share are determined by federal regulations.

#### 5 – I.A. ANNUAL INCOME OVERVIEW [24 CFR PART 5.609]

##### 1. Annual Income:

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated;
- All actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]

See Exhibit 5.1 “Annual Income Full Definition” for the full regulatory definition of Annual Income and its inclusions and exclusions.

##### 2. Other Income-Related Definitions:

###### f. Earned Income [24 CFR 5.100]

Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

###### g. Unearned Income

Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income

**h. Day Laborer [5.603]**

A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future. Income earned as a day laborer is not considered nonrecurring income under and must be included, unless specifically excluded in 24 CFR 5.609(b)

**i. Independent Contractor**

An independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax. In general, an individual is an independent contractor if they have the right to control or direct only the conduct of the work. Income earned as an independent contractor is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR 5.609(b)

**j. Seasonal Worker**

A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry. Income earned as a seasonal worker is not considered nonrecurring income and must be included unless specifically excluded in 24 CFR 5.609(b)

**5 – I.B. ASSETS [24 CFR 5.100, 24 CFR 5.603, PIH Notice 2023-27]**

**1. Overview [24 CFR 5.603(b)(3), PIH Notice 2023-27]**

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. The regulation at 24 CFR 5.603(b)(3) defines net family assets and provides a list of items that are excluded from its calculation. See Exhibit 5.2 “Treatment of Family Assets” for the full regulatory definition of net family assets and the list of exclusions.

Income from assets is always anticipated, irrespective of the income examination type.

**PHA Policy**

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The PHA will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) the PHA believes that past income is the best indicator of anticipated income.

Any time current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information

and documentation to the PHA to show why the asset income determination does not represent the family's anticipated asset income.

## **2. Assets with Negative Equity [24 CFR 2023-27]**

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

## **3. Assets Disposed of for Less than Fair Market Value**

When determining the value of net family assets, PHAs must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

## **4. Assets Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

## **5. Jointly Owned Assets**

Jointly owned assets. For assets jointly owned by the family and one or more individuals outside of the assisted family, PHAs must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded, or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is

specifically excluded, or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

## 6. Family Declaration

### **PHA Policy**

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

## 7. Necessary and Non-Necessary Personal Property

### a. Definitions

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD Defines **Necessary Personal Property** is defined as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home.

Necessary personal property **does not** include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property will be classified as **non-necessary personal property**.

**b. Non-Necessary Property and Net Family Assets**

Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table provided by Notice PIH 2023-27 provides examples of necessary and non-necessary personal property:

Necessary Personal Property	Non-Necessary Personal Property
<ul style="list-style-type: none"><li>• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</li><li>• Furniture, carpets, linens, kitchenware</li><li>• Common appliances</li><li>• Common electronics (e.g., radio, television, DVD player, gaming system)</li><li>• Clothing</li><li>• Personal effects that are not luxury items (e.g., toys, books)</li><li>• Wedding and engagement rings</li><li>• Jewelry used in religious/cultural celebrations and ceremonies</li><li>• Religious and cultural items</li><li>• Medical equipment and supplies</li><li>• Health care-related supplies</li><li>• Musical instruments used by the family</li><li>• Personal computers, phones, tablets, and related equipment</li><li>• Professional tools of trade of the family, for example professional books</li><li>• Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</li></ul>	<ul style="list-style-type: none"><li>• Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs))</li><li>• Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</li><li>• Recreational boat/watercraft</li><li>• Expensive jewelry without religious or cultural value, or which does not hold family significance</li><li>• Collectibles (e.g., coins/stamps)</li><li>• Equipment/machinery that is not used to generate income for a business</li><li>• Items such as gems/precious metals, antique cars, artwork, etc.</li></ul>

**Necessary      Personal      Property**  
**Continued**

- Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)

## 8. Asset Types

The regulation at 24 CFR 5.603(b)(3) defines net family assets and provides a list of items that are excluded from its calculation. See Exhibit 5.2 “Treatment of Family Assets” for the full regulatory definition of net family assets and the list of exclusions.

### a. Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. If a checking or savings account does not bear interest, the anticipated income from the account is zero.

### PHA Policy

- In determining the value of a checking account, the Housing Division will use the current balance.
- In determining the value of a savings account, the Housing Division will use the current balance.
- In determining the anticipated income from an interest bearing checking or savings account, the Housing Division will multiply the value of the account by the current rate of interest paid on the account.

- Checking and savings accounts earning less than \$20 in annual interest will have a minimal impact on the family's total tenant payment (TTP). Therefore, it is not cost effective to obtain third party verification for these types of accounts, and document review is acceptable.

**b. Investment Accounts Such as Stocks, Bonds, Savings Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]**

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

Interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

**PHA Policy**

- In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.
- How anticipated income from an investment account will be calculated depends on whether the rate of return is known.
  - For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

- When the anticipated rate of return is not known (e.g., stocks), the Housing Division will calculate asset income based on the earnings for the most recent reporting period.

**c. Trusts [24 CFR 5.609(b)(2), 5.603(b)(4), and Notice PIH 2023-27]**

**i. Trust Definition**

A **trust** is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

When either an irrevocable trust or a revocable trust is outside the control of the family or household the following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, revocable and irrevocable.

**ii. Irrevocable Trusts [PIH Notice 2023-27 Table F2].**

An **irrevocable trust**, is a trust where the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable.

The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

### iii. Revocable Trusts

A **revocable trust** is a trust where the creator of the trust can terminate and/or amend the trust at any time for any reason before his or her death. When there is a revocable trust, the creator has access to the funds in the trust account.

#### *Not under the Control of the Family*

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not “own” the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account’s trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust’s principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust’s principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

#### *Under the Control of the Family*

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family’s net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

**Table F2: Annual Income/Net Family Assets Scenarios based on Trust Type [Notice PIH 2023-27]**

Trust Type	Is the trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principal considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

**d. Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]**

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

**e. Federal Tax Refunds / Refundable Tax Credits [24 CFR 5.603]**

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

The anticipated income earned by the assets in which a family has deposited their federal tax refund or refundable tax credits must be included in the family's annual income unless the income is specifically excluded under 24 CFR 5.609(b).

**f. Passbook Rate [24 CFR 5.609]**

PHA's must use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (a figure that is annually adjusted for inflation). For 2024, the passbook rate will be 0.40 percent. HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis.

**5 – I.B. REQUIRED CONSENT [24 CFR 5.230, FORM HUD-9886]**

**1. Overview**

The Housing Division is required to verify income information used to establish the household's eligibility and level of assistance. The Housing Division is required to obtain the household's consent to collect this information. The verification process requires the family to provide and disclose information that is true and complete. Each member of the family who is at least 18 years of age, and each family head and spouse, regardless of age, shall sign one or more consent forms including HUD Form 9886 (Authorization for the Release of Information) as a condition of admission to the program and continued assistance.

**2. Authorization for the Release of Information (Form HUD-9886)**

Form HUD-9886 provides authorization for the following:

- HUD and the PHA to obtain any information necessary from State Wage Information and Collection Agencies (SWICAs) to verify information provided at the time of application or recertification. This authorization includes accessing HUD's Enterprise Income Verification System (EIV).
- HUD and the PHA to verify income information with previous and current employers that is pertinent to eligibility or level of assistance.
- HUD and the PHA to obtain information from financial institutions concerning unearned income.
- HUD to request income tax return information from the IRS and Social Security Administration (SSA) to verify income related to eligibility or level of assistance.

### **3. Family Responsibility**

#### **PHA Policy**

Families must notify the Housing Division within 30 days should a participating family contain a household member who turns 18 years of age between reexaminations. Families who are planning to add a household member 18 years of age or older must notify and receive approval from the Housing Division prior to the addition of the family member. All family composition changes must be approved by the Housing Department prior to the addition of the family member.

### **4. Revocation of Consent [24 CFR 5.230; 24 CFR 5.232]**

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

Revocation of consent or refusal to sign the consent forms prohibits the PHA from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program).

PHAs will not be able to process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).

Families have the right to revoke consent by providing written notice to the PHA, however, revoking consent may result in termination of assistance or denial of admission. PHAs must explain to families the consequences, if any, of revoking their consent.

PHAs must notify their local HUD office of a family's revocation of consent.

#### **PHA Policy**

Should a family exercise their right to revoke consent, the Housing Division will terminate the family's assistance. Prior to termination the Housing Division will remind the family that revoking consent will result in termination and provide the family the opportunity to rescind their request.

## **5 – I.C. INCOME & ASSET VERIFICATION [24 CFR 960.259]**

### **1. Overview**

The verification process during the time of application, pre-certification, interim and annual reexamination is a critical task in the administration of the City's assisted housing programs. The City's Housing office verifies all factors relating to eligibility

determinations. These include: family composition and type, annual income, assets and asset income, child care and medical expenses, social security numbers, and citizenship or eligible immigration status.

The Housing Division must also obtain and document in the tenant file third party verifications of the following as it pertains to: reported family income, the cash value of assets and income derived from assets; expenses related to deductions from annual income; and other factors that affect the calculation of adjusted income.

## **2. Income Verification Hierarchy [24 CFR 5.233, PIH Notice 2023-23]**

### **i. Overview:**

PHAs are responsible for obtaining third-party verification of reported family annual income, the value of assets, expenses related to deductions from annual income, and other factors that affect the determination of adjusted income. Third-party verification is a process by which PHAs gather information (e.g., about the family's annual income, value of assets, etc.) independently from the source of the income, assets, expenses, or other factors that affect the determination of adjusted income. Third-party verification may be obtained directly from the third party or through the family. PHAs must document in the tenant file the reason why third-party verification was not available unless HUD's regulations specifically permit families to self-certify a particular component of adjusted income.

HUD developed a hierarchy (see table below) that describes verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

### **ii. Hierarchy**

<b>Level</b>	<b>Verification Technique</b>	<b>Ranking / Order of Acceptability</b>
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	<p>Highest</p> <ul style="list-style-type: none"><li>• PHAs must pull the EIV Income Report for each family at every Annual Reexamination.</li><li>• EIV may be used as the sole verification of Social Security income.</li><li>• EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.</li></ul>

5	Upfront Income Verification (UIV) using non-EIV system	Highest
4	<p>Written, third-party verification from the source, also known as “tenant-provided verification” OR EIV + Self-Certification</p> <ul style="list-style-type: none"> <li>• PHAs can choose either option when both are available to verify income.</li> <li>• PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)</li> </ul>	<p>High</p> <ul style="list-style-type: none"> <li>• Written, third-party verification is used when tenant disputes EIV-reported employment and income information.</li> <li>• The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.</li> </ul>
3	Written, Third-Party Verification Form	<p>Medium</p> <ul style="list-style-type: none"> <li>• Use if Level 5 or Level 4 verification is not available or is rejected by the PHA and when the applicant or tenant is unable to provide acceptable documentation.</li> <li>• May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.</li> </ul>
2	Oral Third-Party Verification	Medium
1	Self-Certification (not third-party verification)	<p>Low</p> <ul style="list-style-type: none"> <li>• Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed \$50,000.</li> </ul>

### 3. Income Verification Categories [24 CFR 5.233, PIH Notice 2023-23]

#### a. Up Front Income Verification (UIV) Enterprise Income Verification (EIV) System (Level 6)

PHAs are required to complete up-front income verifications using HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations.

##### PHA Policy

The Housing Division will continue to complete-up-front income verifications using HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during interim reexaminations as well as family composition change appointments.

PHAs are required to review the Income and EIV's Income Validation Tool (IVT) reports during mandatory reexaminations of family income and/or composition to reduce tenant under reporting of income and improper subsidy payments. EIV is classified as an UIV technique (or automated written third-party verification), which helps to identify income sources and/or amounts that the tenant may not have disclosed.

EIV also provides various reports to assist PHAs with the following:

- Identifying tenants whose reported personal identifiers do not match the SSA database;
- Identifying tenants who need to disclose an SSN;
- Identifying tenants whose reported personal identifiers do not match the SSA database;
- Identifying tenants who may not have reported complete and accurate income information;
- Identifying tenants who have started a new job;
- Identifying tenants who may be receiving duplicate rental assistance;
- Identifying tenants who are deceased and possibly continuing to receive rental assistance; and
- Identifying former tenants of PIH rental assistance programs who voluntarily or involuntarily left the program and have a reportable adverse status and/or owe money to a PHA or Section 8 landlord.

**b. Up-Front-Income Verification (UIV) using a non-HUD system (Level 5)**

Up-front income verification (UIV) refers to the Housing Divisions use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV using non-HUD systems is recommended by HUD and may provide income verification information at a faster rate than the EIV system. Examples non-HUD UIV systems may include services such as: The Work Number, web-based state benefits systems, etc.)

**c. Written Third Party Verifications (Level 4)**

Written Third Party Verification is defined as an original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. PHAs may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

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

PHAs are required to obtain a minimum of two current and consecutive pay stubs for determining projected annual income from wages when they are relying on pay stubs for Level 4 documentation. When available, the collection of more than two paystubs will allow for a more accurate projection. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV; this practice is known as "EIV + Self-Certification." The PHA may use their discretion to determine which method of calculation is reasonable: the last 4 quarters combined or an average of any number of

quarters. The EIV Income report must be pulled within 120 days prior to the reexamination effective date.

PHAs are required to obtain a minimum of two current and consecutive pay stubs for determining annual income from wages when they do not elect to use EIV + Self-Certification or the income type is not reported in EIV. Written third party verification is also mandatory when the tenant disputes an EIV reported employment or other income information and the participant is unable to provide acceptable documentation to support the dispute.

**d. Written Third Party Verification Form (Level 3)**

Written Third Party Verification Form includes a standardized form to collect information directly from a third-party source. The PHA sends the form directly to the third-party source by mail, fax, or email and the form is completed by the third party and then returned directly to the PHA. The family is required to sign an authorization allowing the information source to release the specified information.

Per HOTMA, the PHA may skip this level of verification before attempting Level 2, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

**PHA Policy**

The Housing Division will require verification by a Written Third-Party Verification Form when written third party verification is not available. One attempt to obtain third-party verification is made before relying on another method.

Third-party verification forms, including computerized printouts, may not be hand carried by the family under any circumstances. The City will send request for third-party written verification to the source at all times regardless of whether the family provides a computerized printout.

The City will allow two weeks for return of third-party verifications. If third-party verification is not used, the City will document the reasons in the file.

Many times, the third-party verification is received weeks or months after the income determination. The housing specialist(s) will review the information and compare the income, hours, pay scale etc. To determine if the calculation of projected income is correct. If adjustments are necessary, the tenant will be called in to recalculate the income.

**e. Oral Third-Party Verification (Level 2)**

Oral Third-Party Verification is completed through independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique, or identified by the family, via telephone or in-person visit.

The PHA must document in the tenant file the date and time of the telephone call (or visit to the third party) and the name of the person contacted and their telephone number, the confirmed information, and the reason third-party verification was not available.

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

The PHA may skip this level of verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

### **PHA Policy**

If oral third-party verification is provided by telephone, the staff person must originate the call. If third-party verification is not available, the City will compare the specified information to any documents provided by the family.

**Review of Documents** – In the event that third-party written or oral verification is unavailable or information has not been verified by a third party within four weeks, the City will annotate the file accordingly and utilize documents provided by the family as the primary source if the documents contain complete information.

If third-party verification is received after documents have been accepted as provisional verification and there is a discrepancy, the City will contact the third-party source and family to resolve differences.

## **f. Tenant Declaration (Level 1)**

Under Tenant Declaration – The tenant submits a signed statement of reported income and/or expenses to the PHA. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

### **i. Excluded Income [24 CFR 5.609]**

The Housing Division will accept self-certification for fully excluded income. Some examples of fully excluded income verifiable through self-certification include SNAP benefits and Income from Live-in aide.

The Housing Division is not required to verify fully excluded income as per HUD's verification, document in the tenant file as to why the third-party party verification was not available or report fully excluded income on the HUD form 50058.

However, an income source that is partially excluded, for example, earnings in excess of \$480 for full-time students 18 years of age or older (24 CFR § 5.609(b)(14)), must be third-party verified and reported on forms HUD-50058. See

Exhibit 5.1 “Annual Income Full Definition” for more information on excluded income.

**ii. Net Family Assets Equal to or Less than \$50,000**

The Housing Division will accept self-certification for Net Family Assets totaling equal to or less than \$50,000 adjusted annually for inflation. The Housing Division may require verification of Net Family Assets from the family at any point should the Housing Division believe the Net Family Assets for the family may be greater than \$50,000 or upon HUD’s request. When PHA’s accept self-certification of family assets at reexamination, the PHA must fully verify the family’s assets every three years.

**4. Income & Asset Verification Policies**

**a. Document Requirements**

The Housing Division may accept verifications in the form of:

- Scanned documents from third parties;
- Printed wage stubs;
- Computer printouts from employers;
- Signed letters provided that the information is confirmed by phone;
- Official documents from federal, state or local agencies;
- Bank statements;
- The Housing Division will not accept photocopies but will accept faxed and electronically submitted documents.
- The Housing Division will photocopy verification documents when not prohibited by law. When documents cannot be photocopied, staff certification forms noting the document viewed will be used by recording the source of information, the information obtained and signed/dated by the staff person who viewed the document.
- The Housing Division will document the file describing why a lower method of verification was used.
- Any household self-certifications must be made in a format acceptable to the Housing Division. The Housing Division may require that family self-certifications be signed in the presence of a Housing Division representative or Notary Public.

**b. Income Verification**

**i. Wages / Self Employment**

For verification of wages the Housing Division requires a minimum of 2 consecutive paystubs; however, the Housing Division may request additional paystubs, i.e. if the pay frequency is irregular. Whenever available the collection of more than two paystubs will allow for a more accurate projection. Paystubs should clearly reflect the Year to Date amount as this amount can also be a great tool to ensure an accurate projection. The Housing Division will use tax form Schedule SE (Form 1040) from the family's most recent tax submission to verify self-employment.

**ii. Disability**

The Housing Division will use third party written verification of social security disability benefits received from the local SSA office or a physician's statement confirming disability or handicap status. Physician statements must be submitted to the Housing Division directly from a medical professional and cannot be hand carried in by the family

**iii. Other Government Benefits**

For verification of government benefits such as SNAP, Medicare, Medicaid, the Housing Division will accept documentation from the agency on such benefits.

**iv. Child Support**

The Housing Division will use authentic documents from the Office of the Attorney General to verify income received from Child Support.

**Special Procedures for Verification of Erratic Child Support Income**

The full amount of child support payments awarded is counted as income unless it is verified that the payments are not being made.

The following documentation is required to verify that the family receives less than the court ordered amount of child support:

- Current print out from the child support enforcement agency indicating the dates and amount of payments actually received.
- If payments have stopped: a faxed or emailed verification received from the State of Texas Attorney General's Office will be required. This verification will provide the amount of the court ordered child support as well as the date and amount of the last payment actually received.

- Information accessed on the internet through the State of Texas Child Support Interactive website which provides the date and amount of the last 12 payments made will be acceptable. Depending on the frequency of the payments, this will provide a three to twelve-month payment history.

**v. Other Support**

If a tenant receives payment of utilities or other expenses from a third party or combination of third parties (such as relatives, friends, churches, United Way, or Interfaith Ministries, etc.) and these payments are on a recurring basis (more than three times in a one year period) the PHA must consider this as income. This is income to the tenant regardless of whether the tenant made the payment or the benefactor made the payment on the tenant's behalf. The tenant must disclose all income received from all sources or face termination from the program for unreported or under-reported income.

The PHA may, at their sole discretion, exclude income received for certain CDBG funded training programs. HUD may mandate other types of income to be excluded.

**c. Assets Verifications**

**i. Family Assets**

The Housing Division will utilize the current balance for savings and checking accounts. The Housing Division will require the information necessary to determine the current cash value of a family's assets (the net amount the family would receive if the asset were converted to cash).

To document an asset, a third-party verification form is mailed or faxed by the Housing Division directly to the financial institution. If third-party verification is not available, the following may be accepted:

- Letters or documents provided directly by the financial institution or broker
- Passbooks, checking account statements, certificates of deposits, bonds, or financial statements supplied by a family if completed by a financial institution or broker
- Real estate tax statements if the approximate current market value can be deduced from them
- Financial statements for business assets
- Copies of closing documents showing selling price and distribution of sales proceeds

- Appraisals of personal property held as an investment
- A family's self-certification describing assets or cash held at the family's home or in safe-deposit boxes

**ii. Assets Disposed of for Less Than Fair Market Value During Two Years Preceding Effective Date of Certification or Recertification**

At admissions and reexaminations, the Housing Division will obtain each family's certification that it has or has not disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification. If the family certifies that it has disposed of assets for less than fair market value, the certification must show: (a) all assets disposed of for less than fair market value, (b) the date they were disposed of, (c) the amount the family received for each asset, and (d) the market value of each asset at the time of disposition. Third-party verification will be obtained whenever possible.

**iii. Income from Assets**

Savings or Checking Account Interest and Dividend Income – Acceptable methods of verifications include, in this order:

- Housing Division verification forms filled out or other statements supplied by the financial institution or, if these are not available, account statements, passbooks, or certificate of deposit statements supplied by the family
- Broker statements showing the value of stocks or bonds and the earnings credited to the family. (Earnings can also be obtained from current newspaper quotations or orally for brokers.)
- IRS Form 1099 from a financial institution provided that the Housing Division adjusts the information to project earnings expected for the next 12 months.

Interest Income from Mortgage and Similar Arrangements – Acceptable methods of verification include, in this order:

- A letter received directly from an accountant, attorney, real estate broker, the buyer, or a financial institution stating the interest due for the next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless the breakdown of interest and principal is shown.)
- An amortization schedule showing interest for the 12 months following the effective date of certification or recertification.

Net Rental Income from Property Owned by Family – Acceptable methods of verification include, in this order:

- IRS Form 1040 with Schedule E (Rental Income)
- Copies of latest rent receipts, leases, or other documentation of rent amounts
- Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
- Lessee's written statement verifying rent payments to the family and the family's self-certification of net income realized

**iv. Disclosure Requirement**

The tenant must disclose all income received from all sources or face termination from the program for unreported or under-reported income.

**5 – I.D. MANDATORY USE OF EIV [24 CFR 5.233, NOTICE PIH 2023-27]**

PHAs must use HUD's Enterprise Income Verification (EIV) system to verify tenant employment and income information at annual reexaminations of family composition and income. PHAs are required to use EIV in its entirety, including using all of the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information.

PHA's is required to use the following EIV reports:

**1. Debts Owed to PHAs & Terminations.**

- The Debts Owed to PHA's & Termination Report allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.
- PHA's are required to use this report at the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended program participation.

**2. Deceased Tenants Report**

- The Deceased Tenants Report identifies tenants reported by Social Security Administration (SSA) as being deceased.
- PHA's are required to run this report at least quarterly.

**3. Existing Tenant Search**

- The Existing Tenant Search report identifies applicants who may be receiving assistance at another Multifamily project or PIH location.

- PHA's are required to run this report at the time of processing an applicant family for admission.

#### **4. Failed EIV Prescreening Report**

- The Failed EIV Prescreening Report identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test
  - PHA's are required to run this report monthly.

#### **5. Failed Verification Report (Failed SSA Identity Test)**

- The Failed Verification Report identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database.
- PHA's are required to run this report monthly.

#### **6. Identity Verification Report**

- Identity Verification Report identifies tenants that, failed SSA verification, and failed EIV pre-screening.
- PHA's are required to run this report monthly.

#### **7. Income Information for PIH Programs**

- The Income Information for PIH Programs report provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test.
  - Identifies tenants who:
    - May not have reported complete and accurate income information; and/or
    - May be receiving multiple subsidies.
- PHA's are required to run this report at annual reexamination but not required at interim reexaminations.

#### **PHA Policy**

The Housing Division will run the Income Information report from EIV at both annual and interim reexaminations.

#### **8. Income Validation Tool Report for PIH Programs**

- The Income Validation Tool Report for PIH Programs projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to

HUD's data sharing agreements with the Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, and the SSA.

- PHAs are required to obtain an EIV Income and Income Validation Tool Report for each family any time the PHA conducts an annual reexamination of family income and composition. PHAs may use the report at other intervals, in accordance with the PHA's Administrative Plan.

## **9. Multiple Subsidy Report**

- The Multiple Subsidy Report identifies tenants who may be receiving rental assistance at more than one location.
- PHA's are required to run this report at least quarterly

## **10. New Hires Report**

- The New Hires Report identifies tenants who have new employment within the last six months. Report is updated monthly.
- PHAs must review this information at annual reexamination. If the PHA's policy is to require an interim reexamination for increases in income after an interim reexamination decrease, then the PHA must review the report quarterly after the family's interim reexamination decrease.

### **PHA Policy**

The PHA will require interim reexamination for increases in income after an interim reexamination decrease. The PHA will review the report at least quarterly after the family's interim reexamination decrease.

## **11. No Income Reported by HHS or SSA**

- The No Income Reported by HHS or SSA report identifies tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs must obtain written, third-party verification of any income reported by the tenant.
- As identified in a PHA's Administrative Plan written EIV policies and procedures.

### **PHA Policy**

The Housing Division will run this report at least quarterly.

## **5 – I.E. EARNED INCOME DISREGARD (EID) [PIH Notice 2023-27]**

HUD has discontinued the Earned Income Disregard (EID). As a result, no new individuals may qualify for the EID after December 31, 2023. Any individual who has an EID as of December 31, 2023 may continue to use the EID until it expires.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

## **5 – I.F. CALCULATING INCOME [24 CFR 5.609]**

### **1. New Admissions and Interim Reexaminations**

When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, PHAs must use anticipated income (current income) (i.e., the family's estimated income for the upcoming 12-month period).

#### **PHA Policy**

The gross annual income of a family is determined as a result of taking the amount received during varied pay periods and making the figure an annualized amount.

To arrive at an annual income:

- Multiply the monthly income as reported by twelve,
- Multiply the weekly pay as reported by 52 (weeks),
- Multiply a payroll of every two weeks as reported by 26,
- Amounts for paydays that occur twice a calendar month are calculated by taking the gross amount and multiply it by 24, or
- For incomes based on an hourly pay scale multiply by 2080 hours.

The applicant or participant may be asked about any overtime that they receive on a regular basis. Income tax returns can be viewed to verify persons that receive tips or that income from self-employment. Regulations also require tenants to supply income information on the value of assets and income received from assets.

The tenant must disclose all income received from all sources or face termination from the program for unreported or under-reported income.

## 2. Annual Reexaminations [24 CFR 5.609, 982.516]

### a. Overview

When calculating annual income for a household at the time of an annual reexamination, the Housing Division must review and calculate the family's income from the preceding 12-month period, taking into consideration any interims or changes that have taken place during that period. If no changes have been made, the Housing Division must use this amount as the family income for the annual reexamination.

If the Housing Division determines that the family's prior-year income does not reflect the family's current income, it may adjust the calculation of annual income as needed. Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law.

### b. Calculating Annual Income at Annual Reexamination

**Step 1:** Determine the annual income for the previous 12-month period as defined in section 5-I.A of this plan. If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family's rental assistance.

- The PHA reviews the following information to determine prior-year income:
  1. The EIV Income Report (must be pulled within 120 days of the effective date of the annual reexamination to be considered current);
  2. The income reported on the most recent reexamination HUD-50058; and
  3. What the family certified to on the PHA's annual reexamination paperwork for prior-year income.

**Step 2:** Take into consideration any interim reexamination of family income completed since the last annual reexamination.

- If an interim reexamination was performed within the reexamination cycle and there are no additional changes, the PHA must use the annual income from the interim reexamination to determine the family's rental assistance. The PHA may use the verification obtained from the interim reexamination for this step.
- Take into consider any income the tenant reported that did not meet the threshold to complete an interim reexamination (See Chapter 9 Part II for more information on interim reexaminations)
- If the PHA did not perform an interim or there have been changes since the last reexamination, move to Step 3.

**Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, use current income.

- Family reports their income for the prior year and whether there have been permanent changes.
- If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income used for the current annual reexamination HUD-50058. For example, the PHA could use the following documentation and certification from the family:
  - EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
  - Current level 4 documents verifying prior-year income that are dated within the required timeframe (120 days of receipt by the PHA), for example:
    - Year-end statement
    - Pay stub with year-to-date amount
    - Tax forms (Form 1040, W2, 1099, etc.)

**c. Changes / Discrepancies**

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, follow the verification hierarchy to document and verify income.

**3. Applying SSA COLA at Annual / Interim Reexamination [982.516]**

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits.

Effective the day after SSA has announced the COLA, PHAs are required to factor in the COLA when determining SS and SSI annual income for all Annual Reexaminations and Interim Reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

## PART II. ADJUSTED ANNUAL INCOME

### 5 – II.A. OVERVIEW [24 CFR 5.611]

Adjusted Annual Income means the Annual Income minus any of the mandatory deductions for which the family qualifies.

### 5 – II.B. MANDATORY DEDUCTIONS. [24 CFR 5.611, PIH Notice 2023-27]

In determining adjusted income, the Housing Division must deduct the following amounts from annual income:

#### 1. Dependent Deduction

A dependent is a family member other than the head or spouse (which excludes foster children and foster adults) who is under 18 years of age, or is a person with a disability, or is a full-time student. [24 CFR 5.603].

The Dependent Deduction is currently \$480 for each dependent. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be adjusted annually by HUD in accordance with Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25.

#### PHA Policy

**Minor status** is verified with a certified birth certificate and social security card. A certified birth certificate is one that has been issued from a government institution in the location in which the person has been born and shows the date of birth and relationship to the head of household.

**Student status** is verified by written third-party verification using the Housing Division's Student verification form mailed to the educational institution. The institution defines what full-time student means for its student population. Options which may be used for verifying student status include: oral third-party verification by contacting the institution's registrar's office, a current enrollment status letter showing the school's name and address, dates of enrollment and total number of classes or credits attempted in a given quarter or semester. Verification requests should be mailed, faxed, or emailed directly to the school and completed verification should be received directly from the school.

#### 2. Elderly / Disabled Deduction

##### a. Elderly Family

An **elderly family** is a family whose head or spouse is at least 62 years of age. The Elderly/Disabled Family Deduction is currently \$400. Upon implementation of HOTMA

and subject to applicable HUD guidance, this amount will be increased to \$525 and will be adjusted annually by HUD in accordance with CPI for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25. (See Chapter 4 – II.B for verification of Elderly Family Status.)

**b. Disabled Family**

A **disabled family** is a family whose head, spouse or sole member is a person with disabilities. (See Chapter 4 – II.B for Disability verification.)

**3. Health and Medical Care Expenses & Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction**

**a. Health & Medical Expenses**

Health and medical care expenses as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

The health & medical expense deductions are permitted only for households in which the head, spouse, or co-head is elderly or disabled. Health and medical expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed.

**PHA Policy**

IRS Publication 502 is used as guidance in determining allowable medical expenses which may include:

**Summary of Allowable Medical Expenses from IRS Publication 502**

- Services of doctors and health care professionals
- Surgery and medical procedures that are necessary, legal, non-cosmetic
- Services of health care facilities
- Hospitalization, long-term care, and in- home nursing services
- Medical insurance premiums
- Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor
- Nutritional Supplements only if specifically recommended by a doctor to treat a specific medical condition diagnosed by a physician
- Live-in or periodic medical assistance
- Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)
- Substance abuse treatment programs
- Ambulance services and some costs of transportation related to medical expenses
- Dental expenses, eyeglasses, hearing aids, batteries
- Monthly payment on accumulated medical bills. The allowance may include only the amount expected to be paid in the coming 12 months.
- Hospitalization, long-term care, and in- home nursing services

**Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

**b. Reasonable Attendant Care and Auxiliary Apparatus Expenses**

Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing.

Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

In order to claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

**c. Deduction & Threshold**

Unreimbursed health and medical expenses in combination with any unreimbursed reasonable attendant care and auxiliary apparatus expenses may be deducted to the extent that they exceed the HUD-established percent of annual income threshold.

The threshold for Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses is currently set at 3 percent of annual income. Upon implementation of HOTMA and subject to applicable HUD guidance, this amount will be increased to 10 percent of annual income. See Chapter 5 – II.D. for information about hardship exemptions.

**d. Verifications**

**PHA Policy**

**i. Medical Expenses**

Verification of unreimbursed Health and Medical Care Expenses will be verified through written third-party documents provided by the family (example: pharmacy printouts or receipts, etc.). If the family is unable to provide acceptable

documentation the Housing Division will attempt to verify the medical expenses through third-party verification forms.

**ii. Reasonable Attendant Care**

Verification of unreimbursed Reasonable Attendant Care will be verified through written third-party documents provided by the family such as receipts for attendant care, ledgers showing payment from the tenant or if family provided documents are not available, a third-party verification form signed by the provider.

**iii. Auxiliary Apparatus Expenses**

Verification of unreimbursed Auxiliary Apparatus Expenses will be verified through written third-party documents provided by the family such as billing statements for purchase of auxiliary apparatus, other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months, or if family provided documents are not available, a third-party verification form signed by the provider.

The Housing Division must also verify that the family member for whom the expense is incurred is a person with disabilities and that the expense permits a family member, or members, to work.

**iv. Family Member(s) Permitted to Work**

The Housing Division must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to be employed.

The Housing Division will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work. If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

**4. Child Care Expenses**

Reasonable Childcare Expenses are amounts anticipated to be paid by a family for the care of children (including foster), under 13 years of age if the care is necessary to enable a family member to do any of the following: actively seek employment, be gainfully employed, or further the member's education. More than one family member may be enabled to engage in any one of these qualifying activities for child care purposes.

Childcare expenses are deductible only to the extent that they are not reimbursed by any agency or individual outside the household, they reflect reasonable charges for childcare, and the expenses incurred to enable a family member to work do not exceed the amount earned. See Chapter 5 – II.E. for information about hardship exemptions.

**PHA Policy**

Child Care Expenses will be verified through written third-party documents from the childcare provider. These documents may be hand carried by the family. If the family provided documents are not available, the Housing Division will use third-party written verification to verify childcare expenses by faxing, mailing, or emailing a Child Care Verification Form directly to the childcare provider.

Staff will compare the hours during which childcare is provided to the hour's the family members are working or engaging in one of the other qualifying activities to determine if child care is necessary to enable the qualifying activities.

Child care expenses are only considered valid if 1) the income made available to the family by the family member working or going to school exceeds the child care costs, 2) the child care enables a family member to work or attend school, and this is documented, 3) the participant provides a statement (third party verification) from the child care provider that the participant actually paid for the child care, 4) If care is provided by an individual, provide the name, address, rates charged, and certification that child care provider be will report the income to the IRS. Payments over \$600 in a year to an individual will require a record of payment in the form of an IRS form 1099 or W2.

The Housing Division may use reasonable costs as listed under the Texas Child Care Market Rate Survey as provided by the Texas Institute for Child & Family Well Being as a guide in determining reasonableness for childcare expenses.

**5 – II.C. INCOME CEILINGS AND DEDUCTIONS**

**PHA Policy**

When imposing the employment income ceiling, the Housing Division will consider:

- If the assistance enables more than one person to be employed, the incomes of those persons will be combined to determine the ceiling; and
- If an auxiliary apparatus enables the person with a disability to be employed and frees another person to be employed, the allowance cannot exceed the combined incomes of those two people.

If both child care and a disability expense are needed to enable a person in the family to work, the employment income used to justify the child care allowance for employment purposes may not be used to also justify the disability assistance allowance.

*For example:*

The family pays:	Child Care	\$100 per week
	Disability assistance	\$100 per week
	Total	\$200 per week

The combined care enables an adult to work and earn \$150 per week. The total for both the disability assistance allowance and the childcare allowance for employment purposes may not exceed \$150 per week.

## 5 – II.D. HARDSHIP EXEMPTIONS

### 1. Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Hardship Exemptions [24 CFR 5.611, PIH Notice 2023-27]

#### a. Overview

As stated earlier in this Chapter, the implementation of HOTMA will cause an increase in the threshold for deduction of health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses. Concurrently with this increase, the regulations provide financial hardship exemptions for unreimbursed health and medical care expenses, and for reasonable attendant care and auxiliary apparatus expenses for eligible families.

A family may request a hardship exemption only if the family has eligible expenses that can be deducted in excess of 5 percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, co-head, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

#### b. Phased-In Relief

All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to the Housing Division's implementation of HOTMA, will begin receiving the 24-month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first after implementation. Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted

that exceed 7.5 percent of annual income for the immediately following 12 months. After the family has completed the 24 months phase-in at the lower thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move with continued assistance in the HCV program or port to another PHA. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024.

Phased-In Relief ends upon termination. Should a family be terminated and later readmitted to the program the family's expense deduction must be calculated based on the 10-percent threshold.

**Note:** A family receiving phased-in relief may request to receive general hardship relief instead; **once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.**

### **PHA Policy**

Family's eligible for a phased-in hardship relief who were eligible for relief as of January 1, 2024 however, who are treated as new admissions under the Wichita Falls HCV or PBV program, will calculate the family's expense deduction based on the 10-percent threshold.

#### **c. General Relief**

All families who qualify for a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review may be eligible to receive a General Relief hardship.

To receive general relief, a family must request the General Relief Hardship Exemption in writing. The written notice must state that the family is unable to pay their rent.

### **PHA Policy**

#### **i. Circumstances Constituting Financial Hardship**

- A family will be considered for General Hardship Relief if the family is unable to pay their rent due to one of the following:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits; or
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster

The written notice must clarify the reason for the need for the General Relief Exemption. In addition, the written request must also demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If a PHA determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. The Housing Division may, pursuant to their own discretionary policy, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

### **PHA Policy**

#### **i. Extensions**

The Housing Division may grant an extension of one 90-day period in addition to the initial General Relief period defined above. The family must submit a request for an extension in writing to the Housing Division prior to the expiration of the initial General Relief period. The written request must state the reason for the need for extension. Approval of General Relief extensions will be made on a case-by-case basis.

#### **ii. Family Responsibility**

Should the circumstances that made the family eligible for the hardship exemption (during either the initial or extended period) no longer apply, the family is required to notify the Housing Division within 5 business days.

## **2. Child-Care Expenses Hardship Exemption [24 CFR 5.603, 5.611(d)]**

A family whose eligibility for the child-care expense deduction is ending may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent.

When a family requests a hardship exemption to continue receiving a child-care expense deduction that is ending, the Housing Division must recalculate the family's adjusted income and continue the child-care deduction if the family demonstrates to the Housing Division's satisfaction that the family is unable to pay their rent because of loss of the child-care expense deduction and the child-care expense is still necessary even though the family member is no longer working, looking for work, or furthering their education.

The hardship exemption and the resulting alternative adjusted income calculation will remain in place for a period of up to 90 days.

The Housing Division must obtain third-party verification of the family's inability to pay rent or must document in the file the reason that third-party verification was not available. The Housing Division must attempt to obtain third-party verification prior to the end of the 90-day period.

### **PHA Policy**

#### **a. Circumstances Constituting Financial Hardship will include:**

The Housing Division will define a family's inability to pay their rent where the family's total unreimbursed child care expenses are at least \$2,000/year.

#### **b. Request**

A hardship due to an inability to pay rent as a result of the loss of child care deductions must be requested, in writing, by the household.

#### **c. Time Frame & Extensions**

The hardship exemption will last for a period of up to 90 days. No extensions will be granted to this period.

#### **d. Family Responsibility**

Should the circumstances that made the family eligible for the hardship exemption (during either the initial or extended period) no longer apply, the family is required to notify the Housing Division within 5 business days

### **3. PHA Hardship Notification Requirements**

#### **1. Approval of Hardship Exemption [24 CFR 5.611]**

The Housing Division must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to the Housing Division if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. The Housing Division must provide families 30 days' notice of any increase in rent.

#### **2. Denial of Hardship Exemption [24 CFR 5.611]**

The Housing Division must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial.

#### **3. Family Notification of Hardship Exemption Termination**

PHAs must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable

## Part III. SUBSIDY DETERMINATIONS

### 5 – III.A. CALCULATION OF RENTS AND HOUSING ASSISTANCE PAYMENTS

#### 1. Total Tenant Payment (TTP) [24 CFR 5.628]

***Determining total tenant payment (TTP):*** Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:

- (1) 30 percent of the family's monthly adjusted income;
- (2) 10 percent of the family's monthly income;
- (3) The welfare rent (in as-paid states only)
- (4) The minimum rent of \$50 which is established by the Housing Division.

The amount the family pays for rent and utilities (family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit that the family selects.

#### 2. Family Share [24 CFR 982.305(a)(5)]

The Housing Specialist(s) will be responsible for the calculation of the Family Share. The Family Share is based on the information of income and documentation for deductions provided by the applicant and verified by a third party.

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the Housing Division's applicable payment standard the family will pay more than the TTP. At initial occupancy the Housing Division may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. Income must be verified prior to voucher issuance and, if the family's income has changed or any income verification is more than 120 days old, will be reverified prior to lease up.

#### 3. Welfare Rent [24 CFR 5.628]

Does not apply in this locality

#### 4. Minimum Rent [24 CFR 5.630]

##### a. Minimum Rent Amount

The minimum rent for Housing Choice Voucher participants is \$50.00. All voucher families will contribute the highest of thirty percent (30%) of monthly adjusted income or ten percent (10%) of monthly gross income, or the minimum rent toward the rent plus any rent above the applicable Payment Standard.

**b. Minimum rent exemptions:**

The minimum rent requirement may be waived under certain circumstances. Financial hardship status may be granted for a ninety (90) day period beginning the month following the family's written request in the event of the following:

- i. The family has lost eligibility or is awaiting an eligibility determination to receive federal, state or local assistance, including a family having a non-citizen household member lawfully admitted for permanent residence and who would be entitled to public benefits under Title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- ii. The family income has decreased due to changed circumstances such as separation, divorce, abandonment;
- iii. One or more family members have lost employment;
- iv. The family would be evicted as a result of imposing the minimum rent requirement;
- v. There has been a death in the family; or
- vi. There are other hardship situations determined by the PHA on a case by case basis, i.e. emergency hospitalization.

**5 – III.B. MINIMUM RENT HARDSHIP EXEMPTION**

Financial hardship exemptions only apply to payment of minimum rent, not to rent based on the formula for determining the Total Tenant Payment. (TTP)

Other requests may be considered at the Housing Administrators or his / her designees discretion.

**1. Temporary Hardships**

When the tenant initiates a request for a hardship exemption that the PHA determines is temporary in nature:

- a. Rent may be suspended, during the 90-day period beginning on the day the request is made. At the end of the ninety 90-day period, the minimum rent is reinstated retroactively to the date of suspension and the HAP is again adjusted.
- b. The PHA will allow the family a maximum of 24 months to make payment of any delinquent minimum rent payments accrued during the suspension period. However, the family must execute a hardship repayment agreement with a minimum payment of \$20.00 per month. (See Chapter 13 – IV.E. for more information on Hardship Repayment Agreements.)
- c. The family may not be evicted for non-payment of rent during this 90-day period.

## **2. Long Term Hardships**

When the tenant initiates a request for a hardship exemption that the PHA determines is **long term** in nature:

1. The PHA may exempt the family from the minimum rent requirements so long as such hardship continues.
2. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

## **3. Repayment of Minimum Rent**

Family is subject to the terms of the hardship repayment agreement policy. (See Chapter 13 – IV.E).

Hardship determinations are subject to the PHA's Informal Hearing Process and families are exempt from any escrow deposit that may be required under regulations governing the hearing process for other determinations.

## **5 – III.C. ZERO INCOME REVIEWS**

### **PHA Policy**

Zero income reviews will be completed by the Housing Division for families that have reported no verifiable income, or that have an income less than the current TANF, Social Security retirement or SSI amounts. When a family reports no verifiable income, a zero-income questionnaire will be completed which explains how the family pays for household expenses. These families will be referred to as many sources of assistance within the community as possible to get the level of income assistance they deserve. As with all admissions, the Housing Division must verify families' income in EIV within 120 days of admission.

Zero income reviews will be completed at lease up, annual reexamination, and interim reexamination as needed. The Housing Division retains the option to complete a zero-income review outside of these examination periods as needed. A family who begins receiving income is no longer considered zero income even if the change does not trigger an interim reexamination under HOTMA.

**EXHIBIT 5.1: ANNUAL INCOME FULL DEFINITION**

**24 CFR 5.609**

Annual income. (a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

(b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under §5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and

equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—

- (1) The Federal government;
- (2) A State, Tribe, or local government;
- (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- (5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- (3) Gifts, including gifts from family or friends; or
- (4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph

(b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

- (1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or

exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in §5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in §5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum

amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) 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.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs

that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the FEDERAL REGISTER to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

- (v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- (vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- (vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
- (25) Civil rights settlements or judgments, including settlements or judgments for back pay.
- (26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.
- (27) Income earned on amounts placed in a family's Family Self Sufficiency Account.
- (28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:
  - (i) 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; and
  - (ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

**EXHIBIT 5.2: TREATMENT OF FAMILY ASSETS**

**24 CFR 5.603(b) Net Family Assets**

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement

plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

## CHAPTER 6 – BRIEFINGS AND VOUCHER ISSUANCE

### PART I. BRIEFING AND FAMILY OBLIGATIONS

[24 CFR 982.301]

#### 6 – I.A. OVERVIEW

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

#### 6 – I.B. SCHEDULING AND WRITTEN NOTICE TO ATTEND [24 CFR 982.301 (a)]

When a family has been selected from the waiting list, the applicant will be scheduled for an Oral Briefing pending Pre-Certification eligibility approval. An applicant's eligibility will be determined based on the most current federal regulations and guidelines. Failure to attend this briefing session appointment, without justifiable cause, will result in removal of the family's name from the waiting list. The family will be notified and offered the opportunity to reapply. An applicant can submit a written request to reschedule to the next briefing as long as the office receives the letter 24 hours prior to the briefing date.

#### 6 – I.C. ORAL BRIEFING REQUIREMENTS [24 CFR 982.301 (a)]

HUD Requires each oral briefing to include:

- A description of how the program works;
- Family and owner responsibilities;
- Where the family may lease a unit, including renting a dwelling unit inside or outside the PHA jurisdiction, and any information on selecting a unit that HUD provides;
- An explanation of how portability works;
- The advantages of areas that do not have a high concentration of low-income families

#### Additional SEMAP Requirements [24 CFR 985.3(c)]

In addition, HUD requires that the PHA prepares, assembles and uses the following information in the briefing of voucher holders:

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction, and
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services.

### **PHA Policy**

The Housing Division will provide the family an oral briefing either individually, in groups, or electronically.

- All adult members in the Household are required to attend the briefing.
- Families that attend group briefings and still need individual assistance will be referred to an appropriate staff person. If additional assistance is needed due to a disability or Limited English Proficiency (LEP), staff will coordinate services to ensure information is communicated appropriately to meet the needs of the applicant.

### **6 – I.D. THE BRIEFING INFORMATION PACKET [24 CFR 982.301 (b)]**

In addition to the Briefing, families selected to participate in the program will be given an electronic or paper Briefing Information Packet which contains written information about the HCV program. HUD has established a minimum list of items to be in the packet and the City has added additional items of information.

#### **Briefing Packet Requirements**

HUD requires the Briefing Information packet to include:

1. The term of the voucher, voucher suspensions, and PHA policy on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
2. How the PHA determines the amount of the housing assistance payment for a family, including:
  - a. How the PHA determines the payment standard for a family; and
  - b. How the PHA determines the total tenant payment for a family.
3. How the PHA determines the maximum rent for an assisted unit.
4. Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process, which may affect the family's assistance.
5. The HUD-required "tenancy addendum" that must be included in the lease.

6. The form that the family uses to request PHA approval of the assisted tenancy, and an explanation of how to request such approval.
7. A statement of the PHA policy on providing information about a family to prospective owners.
8. PHA subsidy standards, including when the PHA will consider granting exceptions to the standards.
9. Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.
10. Information on federal, State and local equal opportunity laws, and a copy of the housing discrimination complaint form.
11. A list of landlords known to the PHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit. PHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.
12. Notice that if the family includes a disabled person, the family may request a current listing of accessible units known to the PHA that may be available.
13. Family obligations under the program, including any obligations of a welfare-to-work family.
14. The advantages of areas that do not have a high concentration of low-income families.

**Additional Requirements [ 24 CFR 982.552]**

15. The grounds on which the PHA may deny or terminate assistance because of family action or failure to act.
16. The PHA informal hearing procedures.

**Additional SEMAP Requirements [24 CFR 985.3(g)]**

17. An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers.

**PHA Policy**

The Housing Division will also include the following items in the Briefing Packet:

- The HUD pamphlet on lead-based paint entitled Protect Your Family from Lead in Your Home.
- 2005 (VAWA) to victims of domestic violence, dating violence, sexual assault and stalking (see Chapter 13 Part VIII).
- “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12.

- Housing Inspection Information.
- Information on security deposits for both the unit and for any tenant paid utilities.

## **6 – I.E. FAMILY OBLIGATIONS [24 CFR 982.551]**

### **1. Overview**

Family obligations are described in 24 CFR 982.551 and are also described on the voucher that is given to the family. These obligations include responsibilities that the family is required to fulfill, as well as prohibited actions. HUD requires that the Housing Division inform families of their obligations during the oral briefing. Family Obligations must also be included in the briefing packet. Violation of any family obligations may result in termination of assistance. (See Chapter 11 for more information on Terminations.)

### **2. Time Frames for Reporting Changes Required by Family Obligations**

#### **PHA Policy**

Tenants are required to report any changes in income or changes to family composition within 30 days of the change.

### **3. Family Obligations of the Participant**

The family obligations are listed as follows:

#### **a. Supplying Required Information**

- The family must supply any information that the PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5). “Information” includes any requested certification, release or other documentation.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
- The family must disclose and verify social security numbers of all household members and must sign and submit consent forms for obtaining information in accordance 24 CFR Part 5 Subpart B.
- Any information supplied by the family must be true and complete.

**b. Inspections of the Unit**

**i. HQS Breach**

The family is responsible for any Housing Quality Standards (HQS) breach by the family, as defined in 24 CFR 982.404. HQS breach by the family includes:

- Failure to pay tenant-provided utilities,
- Failure to provide and maintain tenant-provided appliances required by HQS, or
- Damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

**PHA Policy**

Damages caused by break-ins and burglaries are considered the responsibility of the tenant, as they are in open market rentals.

**ii. HQS Repair Time-Lines**

- If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours.

**PHA Policy**

Tenant-provided utilities must be kept in service at all times. Disconnected tenant-provided utilities, due to the actions or inactions of the family, must be corrected within 24 hours.

- For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any PHA-approved extension).
- If the family has caused a breach of the HQS, the PHA must take prompt and vigorous action to enforce the family obligations. The PHA may terminate assistance for the family in accordance with 24 CFR 982.552. (See Chapter 11 for information on Terminations.)
- The family must allow the Housing Division to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 7 of this plan.

**c. Complying with Lease Terms**

- The family must not commit any serious or repeated violation of the lease. (See 24 CFR 5.2005(c))

- The family must notify the Housing Division and the owner before moving out of the unit or terminating the lease. (See Chapter 10 for information on moving with continued assistance.)
- The family must promptly give the Housing Division a copy of any owner eviction notice.

**PHA Policy**

- The family must comply with lease requirements regarding written notice to the owner.
- The family must provide written notice to the Housing Division at the same time the owner is notified.
- The family must provide written notice to both the Housing Division and the Owner prior to vacating a unit. Written notice must be in accordance with the terms of the lease. Most lease terms require at least a 30-day written notice. Vacating a unit without proper notice may result in a 3-Year Penalty. (See Chapter 11 for more information on 3-Year Penalties)

**d. Use and Occupancy of the Unit**

The family must use the assisted unit for residence by the family. The unit must be the family's only residence. The family must promptly notify the Housing Division if any family member no longer resides in the household.

The composition of the assisted family residing in the unit must be approved by the Housing Division. The family must promptly notify the Housing Division in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit. No other person except members of the assisted family may reside in the unit (except for a foster child, foster adult or live-in aide as provided in this chapter).

If the PHA has given approval, a foster child, foster adult, or a live-in-aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residence by a foster child, foster adult, or a live-in-aide, and defining when PHA consent may be given or denied. The family must not sublease the unit. The family must not assign the lease or transfer the unit.

**i. Changes in Family Composition**

**PHA Policy**

The request to add a household member must be submitted in writing and approved prior to the person moving into the unit. The Housing Division will determine eligibility of the new member in accordance with the policies in Chapter 3.

ii. **Guests**

A **Guest** is defined in 24 CFR 5.100 as a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to such consent on behalf of the tenant.

**PHA Policy**

Landlords may define in their lease if the tenant may have overnight guests and for what length of time. If not specified in the lease the PHA has established three days as the ideal length for stays for anyone not living more than 100 miles away. If the landlord approves, out-of-area guests can stay up to one week.

**Guest Exceptions**

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 30 consecutive days).

iii. **Unauthorized Occupants**

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

It is part of the Family Responsibilities to keep the PHA informed of the composition of their household. Failure to meet this responsibility can result in loss of the family's assistance (See Chapter 11 for information on Terminations).

Applicants and participants will be warned that persons not on the lease are not part of the household, even if blood, marriage or legal instrument relates them. Only persons listed on the lease may reside in the unit. The income of all persons residing in the unit are used to determine the family's share of the rent. Failure to keep unauthorized persons from being in the unit can result in loss of assistance for the family (See Chapter 11 for information on Terminations).

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence. The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household. Unauthorized occupants may result in the

termination of assistance. (See Chapter 11 for more information on Terminations)

Any person not listed on the lease cannot be considered a remaining family member under the program guidelines. Attendant care persons (Live-In-Aides), whose incomes are not counted for determining the eligibility or the rent of the family, are not parties to the lease even if listed on the lease. They would not be considered the remaining member of the tenant family in the event the lessee dies or vacates the dwelling unit. Information that there is an attendant care person in the household may be listed on the lease. However, that does not make them a party to the lease. It is best to have the live-in-aide listed by name on the lease.

**iv. Absence from the Unit [24 CFR 982.312]**

The family may be absent from the unit for brief periods. For longer absences, the PHA administrative plan establishes the PHA policy on how long the family may be absent from the assisted unit.

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

**PHA Policy**

Written notice to the Housing Division is required under this provision when any individual family member or all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be submitted to the Housing Division as soon as possible but not later than 30 days from the start of the absence.

The maximum number of days that all family members may be absent from the unit is 90 consecutive calendar days, as long as written notice was provided to both the landlord and the PHA within the first 30 days the unit is vacant. The family must inform the PHA and the landlord/agent, in writing, of any family circumstances causing an absence as soon as possible but not later than 30 days of the vacancy.

The landlord can declare the unit abandoned if no notice is received within 30 days. Vacations, outside the area, for a period of no more than 30 days are permitted, but only with written notice to both the PHA and the landlord. These absences can also be for stays in a nursing home, assisted living units, hospital, when the tenant is ~~providing~~ receiving live-in medical care at another location, or for a single member family being incarcerated in prison

or jail. The maximum number of days that all family members may be absent from the unit is 90 consecutive calendar days, as long as written notice was provided to landlord and PHA within the first 30 days the unit is vacant. The unit is vacant when no family members listed on the lease are residing in the unit.

**v. Interest in Unit**

The family must not own or have any interest in the unit. (See Form HUD-52646 ref Reasonable Accommodation).

**e. Criminal Behavior**

**i. Fraud and Other Program Violation**

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

**ii. Crime by Household Members**

The members of the household may not engage in drug-related criminal activity, violent criminal activity or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises (see 24 CFR 982.553, 24 CFR 5.2005(b)(2), 24 CFR 5.2003).

**iii. Alcohol Abuse by Household Members**

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

**f. Receipt of Multiple Assistance**

An assisted family, or members of the family, may not receive Housing assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

**6 – I.F. 3 YEAR PENALTIES**

**PHA Policy**

Participants who violate certain Family Obligations may lead to termination as well as a 3 Year Penalty. (See Chapter 11 for more information):

## PART II. SUBSIDY STANDARDS AND VOUCHER ISSUANCE

### 6 – II.A. OVERVIEW [24 CFR 982.402]

The Housing Division must establish subsidy standards that define the number of bedrooms needed for families of different sizes and compositions. This section presents the policies used to determine the Family Unit Size (also known as the Voucher Size) that a particular family should receive, and the policies that govern making exceptions to those standards. The Housing Division is required to establish policies related to the issuance of voucher, the voucher term, and any extensions to the voucher term [24 CFR 982.54].

### 6 – II.B. DETERMINING FAMILY UNIT SIZE (BEDROOM SIZE) [24 CFR 982.402]

The term "Family Unit Size" has a very precise meaning for this program. The amount of assistance provided to the family is based on "Family Unit Size" and the number of bedrooms the family must have within the unit to meet HQS. Participants will be assigned the smallest bedroom size appropriate to their family size and composition. The family unit size does not dictate the size of the unit the family must lease, nor who within a household will share a bedroom/sleeping room. The occupancy standards in Paragraph 4-8 of HUD Handbook 7420.7 will be used as the standard for the minimum and maximum number of family members, except that a very small child (under 2 years old) may share a one-bedroom unit with a single parent. A room that could be used for sleeping can make the unit acceptable for HQS but may not justify the rent asked for the unit.

#### 1. HUD Subsidy Requirements [24 CFR 982.402]

The following HUD Requirements are used for determining family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the Housing Quality Standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.

- Any live-in aide (approved by the Housing Division to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size. (See PIH Notice 2014-25).
- Unless a live-in-aide resides with the family, the family unit size for any family consisting of a single person must be either a zero or one-bedroom unit, as determined under the PHA subsidy standards.

## **2. Housing Division Subsidy Policy**

HUD requires that the PHA must provide assistance to the family for the smallest family unit size possible. The family unit size standards established by HUD are included in the Housing Quality Standards Section Regulations (24 CFR 5.703(d)(5) and state that no more than two persons will be required to share living/sleeping rooms. The PHA is motivated to help the greatest number of families within the established budget authority. Larger unit sizes increase the amount of subsidy paid on behalf of a tenant family, reducing the amount of funds available to help other families. Therefore, the PHA has adopted a strict policy for authorizing bedroom size according to the chart below. Families will not receive a larger voucher size unless there is an approved exception as defined in section 6 – II.C of this document.

- The Housing Division will assign one bedroom for each two persons within the household unless an exception has been granted.
- Single person families who are not disabled or who are not elderly will be allocated a 0-bedroom voucher.
- Single person families who fall under the definition of an Elderly or Disabled Family will be allocated a 1-bedroom voucher.
- Live-in-aides are not counted as family members nor is their income included in rent calculations, but they are counted when determining family unit size (also known as household size) and are required to have a bedroom of their own.

The Housing Division will reference the following chart when determining the appropriate voucher size for a family:

FAMILY UNIT SIZE AUTHORIZED

<b>Standard for the Issue of Housing Choice Vouchers</b>		
<b>HCV Bedroom Size</b>	<b>Minimum No. Of Persons in Household (HQS)</b>	<b>Maximum No. Of Persons in Household</b>
0- Bedroom	1	1
1-Bedroom	1	2
2-Bedroom	2	4
3-Bedroom	3	6
4-Bedroom	6	8
5-Bedroom	8	10
6-Bedroom	10	12

**3. Temporary Foster Care Placement [PIH Notice 2023-27]**

Upon the implementation of HOTMA, when a member of an assisted family is temporarily placed in foster care (as confirmed by the state child welfare agency), the member is still counted as a family member in the unit from which they were removed. This may result in a foster child or foster adult being counted as an assisted family member in two separate households and receiving consideration in both families' voucher size and/or unit size.

**6 – II.C. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.402(b)(8)]**

In determining family unit size for a particular family, The Housing Division may grant an exception to its established subsidy standards if the Housing Division determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. Exceptions cannot override HUD requirements as laid out in Section II.B. of this Chapter.

**PHA Policy**

The Housing Division will assign two people per bedroom, regardless of age and/or relationship. The Housing Division will consider granting an exception for any of the reasons specified in the 24 CFR 982.402(b)(8): the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request an exception to the occupancy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or

otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

The Housing Division will notify the family of its determination within 15 calendar days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing. (See Chapter 12 Part II for information on Informal Hearings).

## **6 – II.D. VOUCHERS ISSUANCE**

### **1. Overview**

When a family is selected from the waiting list (or as a special admission as described in chapter 4), or when a participant family wishes to move to another unit, the Housing Division issues a Housing Choice Voucher (form HUD-52646). This section describes the voucher issuance process for applicants. Voucher issuance associated with moves for active program participants will be discussed in Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size that the family qualifies for and includes both the date of the voucher issuance and date of expiration. The voucher contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the Housing Division has determined the family to be eligible for the program and that the Housing Division expects to have money available to subsidize the family if the family finds an approvable unit. The Housing Division does not have any liability to any party by the issuance of the voucher and the voucher does not give the family any right to participate in the Housing Choice Voucher Program.

A voucher can be issued to an applicant family only after the Housing Division has determined that the family is eligible for the program and the family has attended an oral Briefing.

### **2. Voucher Term [24 CFR 982.302, 982.303]**

Each applicant to receive assistance will be issued a Voucher, which is good for a 60-day period. To maintain the needed records to track lease up rates, the Voucher will expire at 5:00 P.M. on the 60th date of issuance.

### **3. Voucher Extensions [24 CFR 982.303]**

It is the responsibility of the applicant to report their progress in finding a unit to lease during the voucher term. If the applicant has not submitted a request for tenancy on a unit via the Request for Tenancy Approval form within 30 days, the applicant should report to the Housing Division. The Housing Division will evaluate any issues the tenant is facing and offer additional assistance in the family's housing search. Applicants should continue to stay in contact with the Housing Division regarding their progress.

**a. Extension 1**

Upon written request by the family, the PHA will extend this period for an additional 30 days making the Voucher active for a total of 90 days. The family's written request should explain any issues the family has faced in finding a unit so that the staff can evaluate their outreach program to landlords. Assistance to the applicant can be offered if they are having problems finding a unit. The staff will explain the best methods to locate a unit and explain how the applicant can increase their chance of a successful hunt.

**b. Extension 2 (Limited)**

To make the program accessible to a family member with disabilities, upon written request the PHA, will extend the voucher for an additional 30 days over a normal extension (~~120 days total~~) making the voucher active for a total of 120 days.

**c. Portability Extensions**

In the case of portability, the extension may also be extended up to 120 days if the tenant has requested the extension in writing or the receiving PHA notifies this office of a need to extend the voucher.

All requests for extensions must be submitted to the Housing Division prior to the expiration of the voucher.

**4. Request for Tenancy Approval (RFTA) form [24 CFR 982.302, Form HUD-52517]**

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a unit is found, the owner and the family must complete the Request for Tenancy Approval form that's provided to the family at voucher issuance and return the form to the Housing Division.

**a. Required Owner Information**

- The RFTA contains important information about the rental unit selected by the family including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, proposed rent and the requested beginning date of the lease.
- Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the household
- For units constructed prior to January 1, 1978, owners must either:

3. Certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or
4. Attach a lead-based paint disclosure statement.

- Finally, owners of projects with more than 4 units must provide rent amounts for recently leased comparable units within the premises for purposes of the PHA's determining whether the requested rent is reasonable

**b. Tenant Screening [24 CFR 982.307(a)]**

The Housing Division encourages Landlords to screen all potential residents. Landlords need not accept Families that have a poor rental history, a history of allowing persons not listed on the lease to live in the unit, a history of damaging units or vacating units without giving proper notice.

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy [24 CFR 982.307]. See Chapter 3 Part VI for information on the Housing Division's policies with regard to screening applicant families for the program.

At or before the Housing Division's approval of tenancy the Housing Division must inform the owner that screening and selection for tenancy is the responsibility of the owner. The Housing Division must also inform the owner of their rights and obligations under the Violence Against Women Act of 2013 (VAWA) [24 CFR 982.2005].

**c. Information to be Provided to the Prospective Owners [24 CFR 982.307(b)]**

HUD requires that the PHA give the landlord/agent:

3. The family's current address (as shown in the PHA records); and
4. The name and address (if known to the PHA) of the family's landlord at their current and prior address.

This information will be provided on the Request for Tenancy Approval (RFTA) form.

**d. Security Deposits [24 CFR 982.313]**

The Tenant is responsible for the payment of security deposits. Owners may collect a security deposit but are not required to, and the amounts collected may vary. Usually, the local open market security deposits do not exceed one month's contract rent, however, the amount requested cannot be higher than the amount requested by the landlord/agent for unassisted (open market) units. (See Chapter 8 – I.C. for more information on Security Deposits)

**5. Suspensions of Voucher Term [24 CFR 982.303(c)]**

The PHA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for Housing Division approval of the tenancy until the date the Housing Division notifies the family in writing whether the request has been approved or denied.

**6. Expiration of Voucher Term**

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive housing assistance, the family must reapply.

See Chapter 8 – I.B. for information on approval of tenancy.

**7. Monitoring Participant Characteristics**

The Housing Administrator will monitor and review the characteristics of applicant families to ensure that income levels of participants and applicants are in conformance with current HUD regulations, and that there is sufficient federal funding available to pay for all contracts before a new contract is entered into.

## CHAPTER 9 REEXAMINATIONS

### CHAPTER OVERVIEW

The Housing Division must reexamine each family's income and composition at least annually and adjust the family's level of assistance accordingly. Certain circumstances require Interim Reexaminations to be completed as well. PHAs must establish reasonable procedures for conducting reexaminations of families' income that allow for proper and timely verification of all information and advance notification to the family of any rent change. The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.

### PART I. ANNUAL REEXAMINATIONS [24 CFR 982.516]

#### 9 – I.A. OVERVIEW

The Housing Division must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

#### 9 – I.B. SCHEDULING AND NOTIFICATION

##### 1. Scheduling Annual Reexaminations

PHAs must complete an annual reexamination for each HCV participant family at least once every 12 months. The effective date of the reexamination must fall within 12 months of their previous annual reexamination or new admission effective date.

##### 2. Notification and Participation of Annual Reexaminations

There is no requirement that PHAs conduct an in-person interview as a part of the annual reexamination process. PHAs are required to conduct reexaminations in alternative formats as reasonable accommodations for individuals with disabilities who may be unable to attend a face-to-face interview because of their disability.

#### PHA Policy

The Housing Division will track Annual Reexaminations through a software tracking system and will schedule Annual Reexaminations accordingly. The Housing Division may choose to conduct annual reexaminations in person, by mail, by phone, through an on-line certification process, or other virtual method. Notification of the Annual Reexamination will be sent by mail or through the

Assistance Connect portal. Documents will be accepted by mail, by fax, email, through the on-line Assistance Connect portal, DocuSign, or in-person.

**9 – I.C. CONDUCTING ANNUAL REEXAMINATIONS [24 CFR 982.516, HCV Guidebook, PIH Notice 2023-27]**

The Housing Division is required to conduct an annual reexamination for all families. The PHA must obtain and document in the tenant file third-party verification for all the below components, or document in the tenant file why third-party verification was not available. The annual re-certification process will follow the regulations for initial certification, except photocopies of existing data may be transferred to any new file in the case of moving to a new address.

The following components must be reviewed and updated at Annual Reexamination:

**i. Changes in income, assets, deductions, expenses, and household characteristics.**

- See Chapter 5 – I.F. for information on calculation of Annual Income at Annual Reexamination.

**ii. Changes in Family Composition**

- Review and update the voucher size on the HUD-50058
- If the household size increases, check to see that if their current unit meets HQS space standard requirements.

**iii. Payment Standard**

- Update the payment standard based on the lower of the voucher size or unit size and using the PHA's current Payment Standard Schedule (See Chapter 13 Part I for information on Payment Standards).

**iv. Utility Allowances**

- Update the utility allowance based on the lower of the voucher size or unit size using the PHA's current Utility Allowance Schedule (See Chapter 13 Part II for information on Utility Allowances).

**9 – I.D. NOTIFICATION OF NEW FAMILY SHARE / HAP AMOUNT [HUD-52641]**

The Housing Division must notify the owner and family of any changes in the amount of the HAP payment and tenant rent amount. The notification will specify the date in which such changes will go into effect.

## **PART II – INTERIM REEXAMINATIONS [24 CFR 982.516, PIH Notice 2023-27]**

### **9 – II.A. OVERVIEW**

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported and under what circumstances the Housing Division must process interim reexaminations to reflect those changes.

HUD regulations also permit the Housing Division to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination because of any changes since the last income determination. The Housing Division must complete the interim reexamination within a reasonable time after the family's request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with the HOTMA final rule.

### **9 – II.B. REPORTING CHANGES IN INCOME / FAMILY COMPOSITION**

Interim reexamination will be completed when the family requests a change based on any adjustments in family income, family expenses or family composition, or when one is required to be completed by HUD regulations or as outlined under this Plan.

An Interim Reexamination may be required if evidence is provided by other federal or state agencies, by the Enterprise Income Verification (EIV) system, by other individuals, or as a result of a quality control audit that indicates the need to do a re-examination before the next scheduled review date.

#### **PHA Policy**

Tenants are required to report any increase or decrease in both income or family composition in writing within 30 days of the change. To receive the benefit of a decrease in the family share the changes must be reported before the 25th of the month to allow processing time.

Tenants are informed of this requirement during their initial certification and at each regular reexamination. All tenants will also be informed of the Enterprise Income Verification system that will notify the PHA of any discrepancy between reported income and IRS/Social Security income data.

The Housing Division will conduct interim reexaminations within 30 days of the date of the family's written request or within 30 days of the date the PHA becomes aware of a change in the family's adjusted income.

## 9 – II.C. PROCESSING DECREASES IN ADJUSTED INCOME

A family may request an interim determination of family income for any change since the last determination. Upon the implementation of HOTMA, and subject to applicable HUD guidance, PHAs must conduct an interim reexamination of family income when the PHA becomes aware that a family's annual adjusted income has changed by an amount that the PHA estimates will result in a decrease of 10 percent or more in annual adjusted income or a lower threshold set by HUD or by a PHA as set forth in this plan

### PHA Policy

The Housing Division will process interim reexamination's requests by the family that result in a decrease in adjusted income of 10 percent or more since the family's last income examination except as described below.

Under HOTMA, HUD requires that the Housing Division apply a 0-percent threshold and process interim reexaminations when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income.

### PHA Policy

Tenant's will be required to notify the Housing Division of all increases or decreases in income or family size/composition within 30 days of the change. The Housing Division will document the file of all reported changes.

## 9 – II.D. PROCESSING INCREASES IN ADJUSTED INCOME

Upon the implementation of HOTMA, and subject to applicable HUD guidance, the PHA must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of ten percent or more in annual adjusted income or such other amount established by HUD through notice with the following exception:

- **Exception:** The PHA may not consider any increase in the **earned** income of the family when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction as described in 9 – II.C. during the certification period. (See 5 – I.A.(iii) for the definition of earned income).

The Housing Division will not process interim reexaminations for income increases that are estimated to result in less than a 10-percent increase in annual adjusted income. Note that a series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination.

**PHA Policy**

Tenant's will be required to notify the Housing Division of all increases or decreases in income or family size/composition within 30 days of the change. The Housing Division will document the file of all reported changes.

**9 – II.E. EFFECTIVE DATES OF CHANGES**

**1. Increases Reported Timely**

If the family has reported a change in family income or composition in a timely manner according to the Housing Division's policies, then the Housing Division must provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period.

**2. Decreases Reported Timely**

If the tenant has complied with the interim reporting requirement and the tenant's rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income.

**3. Increases Not Reported Timely**

If the family has failed to report a change in family income or composition within 30 days as per the Housing Division's policy, the Housing Division must implement any resulting rent increases retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income.

**4. Decreases Not Reported Timely**

If the family has failed to report a change in family income or composition within 30 days as per the Housing Division's policy, any resulting rent decrease must be implemented by the first rent period following completion of the reexamination.

**9 – II.I. FAMILY COMPOSITION CHANGES THAT RESULTS IN A VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]**

If a change in the family size or composition of a current participant occurs with the result being that a participant is now under or over housed, the PHA must issue a voucher for that family to move to the correct family unit size and assure adequate funding for that family.

**9 – II.J. NOTIFICATION OF NEW FAMILY SHARE / HAP AMOUNT [HUD-52641, HAP Contract]**

The Housing Division must notify the owner and family of any changes in the amount of the HAP payment and tenant rent amount. The notification will specify the date in which such changes will go into effect.

## Chapter 11 TERMINATION OF ASSISTANCE

### 11 – A. OVERVIEW

HUD requires that the PHA terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

### 11 – B. FAMILY NO LONGER REQUIRES ASSISTANCE

#### 1. Family Withdrawal

The family may request that the Housing Division terminate the housing assistance payments on behalf of the family at any time.

##### PHA Policy

The request to terminate assistance must be made in writing and signed by the head of household. Before terminating the family's assistance, the PHA will follow the notice requirements in Section 11 – F of this chapter.

#### 2. Zero HAP [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

##### PHA Policy

A notice of termination will be sent to any family that has zero HAP for 180 consecutive days. If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the Housing Division of the changes in circumstances and request an interim reexamination before the expiration of the 180-day period.

### 11 – D. GROUNDS FOR TERMINATION OF ASSISTANCE

#### 1. Mandatory Denial or Termination of Assistance

HUD requires that the Housing Division terminate assistance in the following circumstances:

**a. Criminal, Drug Activity, and Alcohol Abuse**

**i. Lifetime Registered Sex Offenders [Notice PIH 2012-28] Lifetime Registered Sex Offenders [Notice PIH 2012-28]**

Persons subject to a lifetime registration under a state sex offender program are permanently denied. Should the Housing Division discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the Housing Division must immediately terminate assistance for the household member.

The PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

**ii. Drug related Criminal Activity [24 CFR 982.552(b)(1), 24 CFR 982.553(a)(1)(i)]**

HUD requires that the Housing Division prohibit admission for a period of 3 years or terminate assistance if:

- The PHA determines that any household member is currently engaging in, or has engaged in, illegal use of a drug in the last 3 years;
- The PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten, or has threatened in the last 3 years, the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- A household member has been evicted from federally assisted housing for drug-related criminal activity in the last 3 years.

The PHA may admit the household if the PHA determines:

- That the household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or
- That the circumstances no longer exist (for example, the criminal household member has died or is imprisoned).

In addition, HUD requires that the Housing Division prohibit admission or terminate assistance if a household member has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing.

**Definitions: [24 CFR 5.100]**

- **Drug** means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
- **Drug-related criminal activity** is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

**iii. Violent Criminal Activity [24 CFR 982.553]**

The PHA may prohibit admission or terminate assistance of a household to the program if the Housing Division determines that any household member is currently engaged in, or has engaged in violent criminal activity.

**Definitions: [24 CFR 5.100]**

- **Violent criminal activity** means any criminal activity that has, as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

**iv. Alcohol Abuse [24 CFR 982.551, 24 CFR 982.553]**

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

**v. PHA Policy on Criminal, Drug Activity, and Alcohol Abuse**

If the family violates any family obligation under the program this PHA may terminate the family's assistance. Any family member or guest that is indicted for criminal activity, drug activity or alcohol abuse will be terminated with a thirty-day notice to landlord.

Any member of the family terminated from federally assisted housing for drug, violent felonious criminal activity, or who's alcohol abuse has threatened the health, safety, or right to peaceful enjoyment of those in the immediate vicinity of the premises shall be denied admission to the HCV program for 3 years (see Chapter 11 – G for more information on 3-Year Penalties).

The PHA chooses to use indictment as the level of "preponderance of evidence" for termination. The 3-year waiting period will not be applicable, if a person was terminated from the program for drug or criminal activities and the indictment is later dropped or the person is not convicted of the crime. The PHA will allow the household to reapply for HCV rental assistance without the 3-year waiting period.

If convicted, the three year wait to reapply will begin with the date of conviction not indictment.

**b. Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)]**

The Housing Division must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease.

**PHA Policy**

Serious and repeated lease violations may include, but are not limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, criminal activity, and alcohol abuse.

Any member of the family terminated from federally assisted housing due to an eviction shall be denied admission to the HCV Program for a period of 3 years (See Chapter 11 – G for more information on 3-Year Penalties).

**c. Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The Housing Division must deny admission or terminate assistance if any family member fails to sign and submit any required consent form (See Chapter 3 for more information on consent requirements).

**PHA Policy**

The Housing Division shall also deny admission or terminate assistance if a family has revoked their signed consent.

**d. Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

The Housing Division must terminate assistance if:

- i. A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
- ii. A family submits evidence of citizenship and eligible immigration status in a timely manner, but the United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or
- iii. A family member, as determined by the Housing Division, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. Federal regulations under 24 CFR 5.514(c) requires that termination be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. This does not apply if the ineligibility of the

ineligible individual was considered by the Housing Division in calculating any proration of assistance provided for the family.

**e. Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

If the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

**PHA Policy**

The Housing Division will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, as long as there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

**f. Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5), FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his / her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the Housing Division must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

**g. Ineligibility Related to Net Assets and Property Ownership [24 CFR 982.552(b)(6), 24 CFR 5.618, PIH Notice 2023-27]**

Upon the implementation of HOTMA, the Housing Division must deny or terminate assistance based on the restrictions on net assets and property ownership (See Chapter 3 – II.E).

### **PHA Policy**

Participants who are no longer eligible for assistance under this section will be delayed termination of assistance for a period not to exceed 6 months.

#### **h. Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2012-10]**

The Housing Division must immediately terminate program assistance for deceased single member households. The PHA is required to confirm the death with the family's head of household or listed emergency contact person.

### **2. PHA Grounds for Denial or Termination of Assistance**

HUD also grants the Housing Division authority to deny program assistance for an applicant, or terminate assistance for a participant at any time for any of the following grounds:

#### **a. Breach of Family Obligations [24 CFR 982.551, 24 CFR 982.552]**

The federal rules provide for denial of participation to an applicant or termination of housing assistance to a participant if a family has breached or breaches its Housing Choice Voucher Family Obligations.

Breach of family obligations include but are not limited to failure of the family to attend scheduled meetings, briefings or appointments, failure to respond to written request for program eligibility or income information, failure to allow the unit to be inspected. See Chapter 6 – I.E for a full list of family obligations.

#### **b. Threats of Violence [24 CFR 982.552(c)(ix)]**

The PHA may deny or terminate assistance if the family has threatened, or engaged in, abuse or violent behavior toward PHA personnel. Tenant violation of lease provisions on threats or disturbances of neighbors is covered in the lease and can also cause the landlord / agent to evict the family and cause termination of future assistance.

#### **c. Family Fraud, Bribery, or Other Corrupt or Criminal Act [24 CFR 982.552]**

If the family has committed fraud by commission, omission or misrepresentation in connection with federal housing programs, the PHA may terminate assistance and cancel the HAP contract. The PHA will make every effort to recover any overpayments made on behalf of the tenant as a result of fraud, unreported or underreported income, or other abuse.

#### **d. Debts Owed [24 CFR 982.552]**

The Housing Division will, at any time, deny admission or terminate assistance if:

- The family currently owes rent or other amounts to any PHA in connection with Section 8 or Public Housing Assistance under the 1937 Act;
- The family has not reimbursed any PHA for amounts the Housing Division paid to an owner under a HAP contract for rent or other amounts owed by the family under the lease;
- The family has breached the terms of a repayment agreement entered into with the Housing Division

**e. Family Absence from the Unit [24 CFR 982.312]**

The family may be absent from the unit for brief periods. The Housing Division must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the household is residing in the unit.

**PHA Policy**

If the family is absent from the unit for more than 90 consecutive calendar days, the family's assistance will be terminated. Whenever the Notice of termination will be sent in accordance with Section 11 – F.

**f. Insufficient Funding [24 CFR 982.454, PIH Notice 2011-28]**

The Housing Division may terminate HAP contracts if the Housing Division determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

The Housing Division will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Chapter 13 Section VII. If the Housing Division determines there is a shortage of funding, prior to terminating any HAP contracts, the Housing Division will determine if any other actions can be taken to reduce program costs. See Chapter 10 – I.B.(4) for information on move restrictions due to insufficient funding. See PIH Notice 2011-28 for more information on available cost saving measures.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the PHA will terminate HAP contracts as a last resort.

**PHA Policy**

**i. Waiting List Voucher Suspensions**

Prior to terminating HAP Contracts, the Housing Division will notify in writing all Voucher holders who were recently issued Vouchers and have not executed a HAP Contract that due to insufficient funding from HUD, the Housing Division cannot execute a HAP Contract at this time. These families' Voucher's will be suspended, until funds become available.

After funds have become available, the families will be notified in writing that they may continue their search for housing. If a period of 60 days has elapsed, each family will need to be recertified to determine if they're still eligible for the program as described in Chapter 3.

**ii. Non-Elderly / Non-Disabled Move Suspensions**

The Housing Division will next notify all current non-elderly and non-disabled household participants that are attempting to move to a new location, with no current HAP Contract in effect. These families Voucher's will be suspended, until funds become available.

After funds have become available, the families will be notified in writing that they may continue their search for housing. If a period of 60 days has elapsed, each family will need to be recertified.

**iii. Termination due to Insufficient Funding**

If the Housing Division must terminate HAP contracts due to insufficient funding, the Housing Division will do so in accordance with the following criteria and instructions.

The Housing Division will inform the local HUD field office. The Housing Division will terminate the minimum number needed in order to reduce HAP costs to a level within the Housing Division's annual budget authority.

- Single, non-elderly, non-disabled individuals will be terminated first.
- Non-elderly, non-disabled households who are able to pay 90 to 100% of their adjusted income towards rent would be terminated second.
- Non-elderly, non-disabled households who are able to pay 80 to 89% of their adjusted income towards rent would be terminated third.
- Non-elderly, non-disabled households who are able to pay 70 to 79% of their adjusted income towards rent would be terminated fourth.

- Non-elderly, non-disabled households who are able to pay 60 to 69% of their adjusted income towards rent would be terminated fifth.
- Non-elderly, non-disabled households who are able to pay 50 to 59% of their adjusted income towards rent would be terminated sixth.

## **11 – E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING]**

This section addresses the protections against termination of assistance that the Violence against Women Act of 2005 (VAWA) provides for victims of domestic violence, dating violence, and stalking.

### **1. VAWA Protections Against Termination**

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program. As do the limitations discussed under the next heading.)

- i. First, VAWA provides that the Housing Division may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the Housing Division, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4)].
- ii. Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].
- iii. Third, it provides that criminal activity directly related to domestic violence, dating violence, or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].
- iv. Fourth, it gives the Housing Division the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

## 2. Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of the Housing Division to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, or stalking so long as the Housing Division does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(2)].

Likewise, VAWA does not limit the authority of the Housing Division to terminate the assistance of a victim of domestic violence, dating violence, or stalking if the Housing Division can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(3)].

HUD regulations at 5.2005(d)(3) and 24 CFR 5.2003 define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm.

In determining whether an individual would pose an actual and imminent threat, the factors to be considered per 24 CFR 5.2003 include the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

### **PHA Policy**

In determining whether a program participant who is a victim of domestic violence, dating violence, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the Housing Division will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking;
- Whether the threat is a physical danger beyond a speculative threat;
- Whether the threat is likely to happen within a short period of time; and
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the Housing Division's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

### **3. Documentation of Abuse [24 CFR 5.2007]**

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, or stalking claims protection under VAWA, the Housing Division will request that the individual provide documentation supporting the claim (See Chapter 13 Part VIII for more information)

The Housing Division reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the Housing Division will document the waiver in the individual's file.

### **4. Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the Housing Division the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member.

Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the Housing Division chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the Housing Division must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

#### **PHA Policy**

The Housing Division will terminate assistance to a family member if the Housing Division determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, the Housing Division will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the Housing Division by the victim. The Housing Division will also consider the factors. Upon such consideration, the Housing Division may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the Housing Division does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

## **11 – F. NOTIFICATION OF TERMINATION [HCV Guidebook 15-7]**

Upon making a decision to terminate assistance, the PHA shall give both the owner and the family written notice of termination that states the:

1. Specific reasons for the termination;
2. Effective date of the termination;
3. Family's right to request an informal hearing; and
4. Family's responsibility to pay the full rent to the owner if the family remains in the assisted unit after the termination effective date.

## **11 – G. 3-YEAR PENALTY**

The Housing Division will enforce a 3-Year Waiting Period for the following:

### **1. Drug, Violent Criminal Activity, or Alcohol Abuse [24 CFR 982.553(a)(2)(ii)]**

The Housing Division will deny assistance for an applicant or terminate assistance for a participant if the head of household or other adult member was terminated from any federally assisted housing program for drug, violent criminal activity, or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of those in the immediate vicinity or has participated in drug, violent criminal activity, or alcohol abuse that threatens the health, safety, or right to peaceful enjoyment of those in the immediate vicinity within the last 3 years.

The PHA chooses to use indictment as the level of "preponderance of evidence" for denial/termination under the HUD Drug-Free PHA Policy. If convicted, the three-year wait to reapply will begin with the date of conviction not indictment. The three-year waiting period will not be applicable, if a person was terminated from the program for drug or violent criminal activities and the indictment is later dropped or the person is not convicted of the crime. In the instance of a dropped indictment, it is the responsibility of the previously assisted tenant to notify the PHA of these circumstances. Upon notification, the PHA will allow the household to reapply for HCV rental assistance without the 3-year waiting period.

### **2. Eviction [24 CFR 982.552(b)]**

The Housing Division will deny assistance for an applicant or terminate assistance for a participant if the head of household or other adult member has been evicted from federally assisted housing, including while active on the Housing Choice Voucher Program or Project Based Voucher program, within the last 3 years.

**3. Vacating a Federally Assisted Unit Without Proper Notice [24 CFR 982.551, 24 CFR 982.354]**

The Housing Division may deny assistance, for a period of 3 years, to any family who has vacated their unit without proper notice to both the Landlord and the PHA. Most lease forms that can be approved, provide for a written notice to the landlord / agent prior to move out. The usual time frame for notification is 30 days although the regulations state that not more than 60-days be required. Under the provisions of 24 CFR 982.309(c)(2), the family is also obligated to notify the landlord / agent and PHA, in writing, before the family moves.

The tenant is required to provide the PHA notice of any absence from the unit. The PHA must not make an assistance payment for any unit that has been vacated. Letters, visits, phone calls, information from the neighbors and the landlord / agent can provide information on the status of the unit. Utility disconnects, hookups or transfers are some of the many ways the PHA has to establish move out dates. Movement from one unit to another unit usually involves the connection or transfer of utilities at the new unit and disconnection of utilities at the old unit.

If the vacate without notice occurred while on the Wichita Falls Housing Assistance Program or Project Based Voucher program, the PHA will take into consideration mitigating factors on a case by case basis such as unexpected and extended medically related stays where the Family was unable to give proper notice. Families who are absent from the unit and the landlord has subsequently considered the unit abandoned will be considered a Vacating the unit without proper notice. See Chapter 6 – I.E.(d)(iv) for more information on family absences from the unit. See Chapter 13 – Part VIII for VAWA protections).

**4. Restriction on being added to another family's lease**

If the family or person was terminated from the program for cause, they may not be added to any other family's lease until a three-year period is over.