



**ADMINISTRATIVE PLAN
FOR THE
HOUSING CHOICE VOUCHER PROGRAM**

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Broward County Housing Authority (BCHA) receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. The PHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. BCHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. BCHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about BCHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

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

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

PART I: THE PHA

1-I.A. OVERVIEW

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

1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the Broward County Housing Authority for the jurisdiction of **Broward County, Florida**.

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

Formal actions of BCHA are taken through written resolutions, adopted by the board of commissioners, and entered into the official records of BCHA.

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

1-I.C. BCHA MISSION

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

BCHA Policy

Broward County Housing Authority is dedicated to creating, providing and increasing high quality housing opportunities to Broward County residents through effective and responsive management and responsible stewardship of public and private funds.

1-I.D. THE PHA'S PROGRAMS

The following programs are included under this administrative plan:

BCHA Policy

BCHA's administrative plan is applicable to the operation of the Housing Choice Voucher program, as well as HUD specialty programs, Continuum of Care/Shelter Plus Care,

Family Unification Program, Family Self Sufficiency, Tenant Based Rental Assistance, Homeless Programs, Veterans Affairs Supportive Housing (VASH), Section 8 Moderate Rehabilitation, Foster Youth to Independence, Mainstream 5-Year, Mainstream 1-Year, Emergency Housing Vouchers, and the Project Based Voucher Program (PBV).

1-I.E. THE PHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, BCHA is committed to providing excellent service to HCV program participants, owners, and to the community. BCHA's standards include:

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

BCHA 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.

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

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

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

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

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

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

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

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994 through 1998, HUD published a series of new rules, known as “conforming” rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

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

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

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

1-II.B. HCV PROGRAM BASICS

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

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

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

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

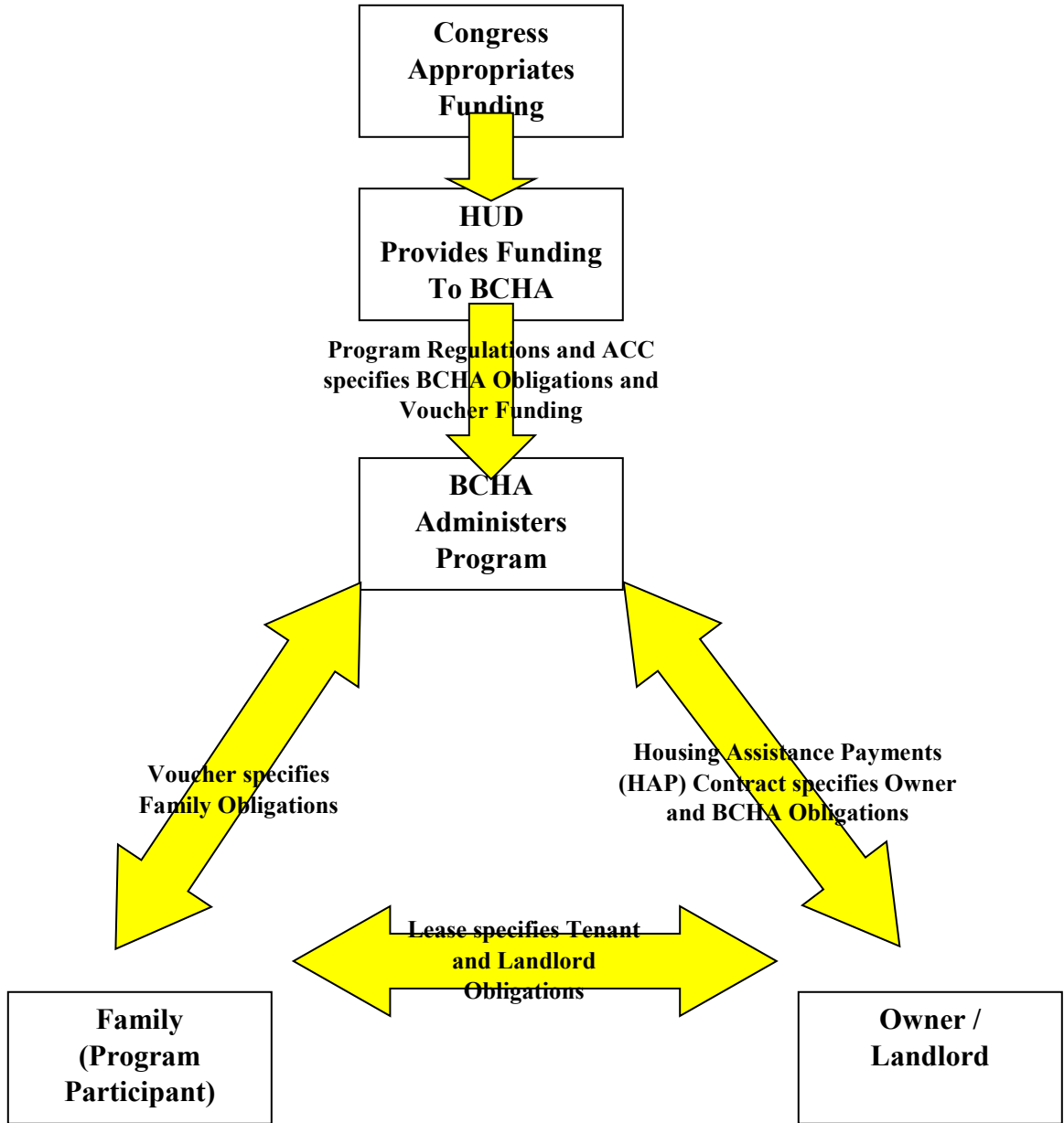
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, BCHA enters into a contractual relationship with HUD (Consolidated Annual Contribution Contract). BCHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

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

The chart on the following page illustrates key aspects of these relationships.

The HCV Relationships:



What Does HUD Do?

HUD has the following major responsibilities:

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

What Does BCHA Do?

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

- Establish local policies to administer the program;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to eligible families and to provide information on how to lease a unit;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Recertify families for continued eligibility under the program;
- Ensure that owners and families comply with their contractual obligations;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, BCHA's administrative plan, and other applicable federal, state and local laws.

What Does the Owner Do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine suitability as renters.
 - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
 - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with BCHA;
- Comply with all applicable fair housing laws and do not discriminate against anyone;
- Maintain the housing unit in accordance with Housing Quality Standards (HQS) and make necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What Does the Family Do?

The family has the following responsibilities:

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

1-II.D. APPLICABLE REGULATIONS

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 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Base Vouchers
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

PART III: THE HCV ADMINISTRATIVE PLAN

1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

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

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

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

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

1-III.B. CONTENTS OF THE PLAN [24 CFR 982.54]

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

- Selection and admission of applicants from BCHA waiting list, including any BCHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening BCHA waiting list (Chapter 4);
- Issuing or denying vouchers, including BCHA policy governing the voucher term and any extensions or suspensions of the voucher term. 'Suspension' means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If BCHA decides to allow extensions or suspensions of the voucher term, BCHA administrative plan must describe how PHA determines whether to grant extensions or suspensions, and how BCHA determines the length of any extension or suspension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to BCHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);

- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards, including policies on administering decreases in the payment standard during the HAP contract term (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- BCHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

HUD expects BCHA to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the PHA discretion. BCHA's administrative plan is the foundation of those policies and procedures. HUD's directions require BCHA to make policy choices that provide sufficient guidance to staff and consistency to program applicants and participants.

Creating policies based upon HUD guidance is not mandatory, provides BCHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If BCHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but BCHA carefully thinks through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

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

1-III.D. UPDATING AND REVISING THE PLAN

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

BCHA Policy

BCHA will review and update the plan at least once a year, and more often if needed, to reflect changes in regulations, BCHA operations, or when needed to ensure staff consistency in operation.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. BCHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063 and 13988
- 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)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2013 (VAWA)

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

Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

BCHA Policy

No state or local nondiscrimination laws or ordinances apply.

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as PHA policies, can prohibit discrimination based on other factors.

The PHA will not discriminate on the basis of race, color, sex (including gender identity and sexual orientation), religion, familial status, age, disability or national origin (called “protected classes”)

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.

BCHA Policy

BCHA does not identify any additional protected classes.

BCHA will not use any of these factors to:

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

Providing Information to Families and Owners

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

Discrimination Complaints

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

Upon receipt of a housing discrimination complaint, the PHA is required to:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
- Keep records of all complaints, investigations, notices, and corrective actions
[Notice PIH 2014-20]

BCHA Policy

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

Within 10 business days of receiving the complaint, BCHA will provide a written notice to those alleged to have violated the rule. BCHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

BCHA will attempt to remedy discrimination complaints made against BCHA and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of the PHA's investigation, the PHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

BCHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

BCHA Policy

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

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

A specific name and phone number of designated staff will be provided to process requests for accommodation.

BCHA will display posters and other housing information and signage in locations throughout BCHA's office in such a manner as to be easily read from a wheelchair.

1.0. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations.

- (1) A person with a disability may require special accommodations to have equal access to the Assisted Housing programs.
- (2) The types of reasonable accommodations BCHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.
- (3) Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for BCHA, 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.
- (4) Types of Reasonable Accommodations:
When needed, BCHA may modify normal procedures to accommodate the needs of a person with a disability. Examples include:

- a) Permitting applications and reexaminations to be completed by mail or phone,
- b) Conducting home visits,
- c) Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside BCHA's range) if BCHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit,
- d) 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
- e) Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with BCHA staff,
- f) Provide posters and other housing information located throughout BCHA's office via print or digital access upon request.

1.1. REQUEST FOR AN ACCOMMODATION

- (1) 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 BCHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- (2) The family must explain what type of accommodation is needed to provide the person with the disability full access to BCHA's programs and services.
- (3) If the need for the accommodation is not readily apparent or known to BCHA, 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.
- (4) BCHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, BCHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

1.2. VERIFICATION OF DISABILITY

- (1) The definition of a person with a disability for the purpose of obtaining a reasonable Accommodation is much broader than the HUD definition of disability, which is used for waiting list preferences and income allowances. The regulatory civil rights definition for persons with disabilities is provided at the end of this chapter.
- (2) Before providing an accommodation, BCHA must determine that:
 - (a) The person meets the definition of a person with a disability, and
 - (b) The accommodation will enhance the family's access to BCHA's programs and services.
- (3) If a person's disability is obvious or otherwise known to BCHA, and if the need for the

requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

- (4) If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to BCHA, BCHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability requires the requested accommodation.
- (5) When verifying a disability, BCHA will follow the verification process below. All information related to a person's disability will be treated in accordance with BCHA confidentiality standards. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:
 - (a) Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. According to the [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act], the following entities may provide verification of a disability:
 - (i) A doctor or other medical professional,
 - (ii) A peer support group,
 - (iii) A non-medical service agency, or
 - (iv) A reliable third party who is in a position to know about the individual's disability.
 - (b) BCHA must request only information that is necessary to evaluate the disability related need for the accommodation. BCHA will not inquire about the nature or extent of any disability.
 - (c) Medical records will not be accepted or retained in the participant file.
 - (d) In the event that BCHA does not receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, BCHA will dispose of it. In place of the information, BCHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

1.3. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

(1) BCHA must approve a request for an accommodation if the following three conditions are met:

- (a) The request was made by or on behalf of a person with a disability.
- (b) There is a disability-related need for the accommodation.
- (c) The requested accommodation is reasonable, meaning it would not impose:
 - (i) An undue financial and administrative burden on BCHA, or
 - (ii) Fundamentally alter the nature of BCHA's Assisted Housing operations (including the obligation to comply with HUD requirements and regulations).

- (2) Requests for accommodations must be assessed on a case-by-case basis.
- (3) Before making a determination whether to approve the request, BCHA may enter into discussion with the family, request more information from the family, or may require the family to sign a consent form so that BCHA may verify the need for the requested accommodation
- (4) BCHA will promptly respond in writing to a request for a reasonable accommodation or consideration of mitigating circumstances with a decision or a request for additional information not to exceed thirty (30) calendar days from receipt of verification(s).
- (5) When a request for additional information is made, the Client must respond within fifteen (15) calendar days of such request, except in cases of extenuating circumstances.
- (6) A request may be reopened if the documentation is received after the stated deadline.
- (7) Upon receipt of the necessary information, BCHA will respond within thirty (30) calendar days, except in cases of extenuating circumstances. In such cases of delay, BCHA will notify the Client in writing why additional time is needed to respond to the request.
- (8) If BCHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of BCHA's operations), BCHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.
- (9) If BCHA believes that the family has failed to identify a reasonable alternative accommodation after the discussion, BCHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.
- (10) BCHA will provide a two-tier Informal Hearing process. The first step is an Appeal to the Department Director or his/her designee (such as a supervisor) and the final step is an appeal to the 504 Coordinator.

(a) Tier One: First Appeal:

- (i) If a request for a reasonable accommodation is denied or a client believes that they have been discriminated against due to their disability, the Client may first submit an appeal to the applicable Department Director. A request for an appeal must be in writing, received by BCHA within thirty (30) calendar days of the Client being notified of the initial denial or discrimination incident.
- (ii) The Department Director (or his/her designee) shall review the case and if necessary consult with BCHA's 504 Coordinator to ensure that the decision is in accordance with the Americans with Disabilities Act (ADA), applicable Fair Housing guidelines, and BCHA policy.
- (iii) If more information is required from the Client, the Client shall have up to fifteen

- (15) business days to provide the requested documentation to BCHA.
- (iv) Once the Director (or his/her designee) has all the documentation necessary to review the appeal, BCHA has thirty (30) business days to provide the Client with a determination on his/her appeal.
- (v) If the appeal is denied, the Client is to be notified of their right to file a grievance within fifteen (15) business days of notification of the denial.

(b) Tier Two: Second Appeal:

- (i) A Client may submit a request for a second appeal to the 504 Coordinator upon notification of the denial of their appeal. The Client has fifteen (15) business days from the date of the denial to file the second appeal.
- (ii) A final determination of the denial shall be provided to the Client within thirty (30) business days from BCHA's receipt of the appeal or after all necessary documentation has been received by BCHA.

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

1.4. RE-VERIFYING THE NEED FOR REASONABLE ACCOMMODATIONS

- (1) Once the need for a reasonable accommodation has been verified, the reasonable accommodation does not have to be re-verified except:
 - (a) At the time a family move, or
 - (b) When there is another change in circumstances, such as when:
 - (i) A live-in aide leaves the household,
 - (ii) A disabled person leaves the household,
 - (iii) A family member listed as disabled can no longer verify s/he is disabled,
 - (iv) At inspection no medical equipment is observed in an additional room granted as an accommodation to store or use the equipment,
 - (v) The health care or service provider approving a need for a live-in aide or other reasonable accommodation has indicated that the need or the disability will be of short duration,
 - (vi) The family member loses his/her disabled status, for example when a person on State disability returns to work.
- (2) If a person's disability is obvious or otherwise known to BCHA, and if the need for the requested accommodation is also readily apparent or known, re-verification is not required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

- (3) This section does not relieve the family of the requirement to provide verification of the disability of family members at reexaminations of family income and composition.

1.5. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

- (1) BCHA must ensure that persons with disabilities related to hearing and vision have reasonable access to BCHA's programs and services [24 CFR 8.6].
- (2) At the initial point of contact and annual reexamination, BCHA will inform all applicants and participants of alternative forms of communication that can be used other than plain language paperwork.
- (3) To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display/teletype) TRS/Florida Relay Services 711 will be available.
- (4) 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.

1.6. AUXILIARY AIDS AND SERVICES

The term 'auxiliary aids and services may include:

- (1) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
- (2) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
- (3) Acquisition or modification of equipment or devices; and
- (4) Other similar services and actions.

1.7. PHYSICAL ACCESSIBILITY

- (1) BCHA must comply with a variety of regulations pertaining to physical accessibility, including, but not limited to, the following:
 - (a) Notice PIH 2010-26
 - (b) Section 504 of the Rehabilitation Act of 1973
 - (c) The Americans with Disabilities Act of 1990
 - (d) The Architectural Barriers Act of 1968
 - (e) The Fair Housing Act of 1988
- (2) BCHA's policies concerning physical accessibility must be readily available to applicants and participants. The policies can be found in the following documents:
 - (a) The Reasonable Accommodation Policy, see appendix; and
 - (b) Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally funded housing programs.
- (3) The design, construction, or alteration of BCHA 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. Pursuant to this policy, BCHA must provide accessibility so long as the accommodation does not impose an undue financial and administrative burden on the operations of BCHA's Assisted Housing programs.

- (4) When issuing a voucher to a family that includes an individual with a disability, BCHA will provide upon request a current list of available accessible units known to BCHA, and will assist the family in locating an available accessible unit, if necessary.
- (5) In general, pursuant to applicable laws related to providing reasonable accommodations to allow for physical accessibility, owners must permit the family to make reasonable modifications to the unit. The owner, however, 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 vacates the unit.

1.8. DENIAL OR TERMINATION OF ASSISTANCE

- (1) BCHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of any requests for reasonable accommodations [24 CFR 982.552 (2) (iv)].
- (2) When applicants with disabilities are denied assistance, the notice of denial must inform them of BCHA's informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.
- (3) When a participant family's assistance is terminated, the notice of termination must inform them of BCHA's informal hearing process and their right to request a hearing and reasonable accommodation.
- (4) When reviewing reasonable accommodation requests, BCHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to BCHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, BCHA must make the accommodation.
- (5) "If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304]".

DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

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

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

The phrase “physical or mental impairment” includes, but is not limited to the following:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

The definition of a person with a disability does not include:

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

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

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

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

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

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

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

2-III.B. ORAL INTERPRETATION

The PHA will offer competent interpretation services free of charge, upon request, to the LEP person.

BCHA Policy

When exercising the option to conduct remote briefings, informal reviews, or hearings, however, the PHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

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 BCHA. The PHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the PHA will not rely on the minor to serve as the interpreter. The interpreter may be a family member or friend.

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

Where feasible and possible, according to its language assistance plan (LAP), BCHA will train and hire bilingual staff to be available to act as interpreters, will pool resources with other PHAs, and will standardize documents.

2-III.C. WRITTEN TRANSLATION

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

BCHA Policy

To comply with written-translation obligations, BCHA will take the following steps:

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

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

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's Assisted Housing programs and services.

BCHA Policy

If it is determined that BCHA serves very few LEP persons, and BCHA has very limited resources, BCHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

If BCHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

Language Access Plan

BCHA is obligated to reduce language barriers that could preclude meaningful access by limited English proficiency (LEP) persons to BCHA programs and activities. BCHA has prepared a Language Access Plan (LAP) which defines the actions to be taken to ensure meaningful access to BCHA services, programs, and activities on the part of LEP persons.

BCHA 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).

To determine the level of access needed by LEP persons, the PHA will balance the following four factors:

BCHA conducted a Four Factor Analysis, considering the following:

1. The number or proportion of LEP persons served or encountered in the eligible service population
2. The frequency with which LEP persons come into contact with the program
3. The nature and importance of the program, activity, or service
4. The resources available to execute the program and costs of providing LEP services

Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

Equal Access

The “Equal Access Rule prohibits considering a person’s marital status, sexual orientation, or gender identity in making eligibility determinations for housing. HUD defines the term “family” as applicable to BCHA S+C/Continuum of Care programs as follows:

Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, any group of persons presenting for assistance together with or without children and irrespective of age, relationship, or whether or not a member of the household has a disability. A child who is temporarily away from the home because of placement in foster care is considered a member of the family.

What this means is that any group of people that present together for assistance and identify themselves as a family, regardless of age or relationship or other factors, are considered to be family and must be served together as such. Further, a recipient or sub-recipient receiving funds under CoC Programs cannot discriminate against a group of people presenting as family based on the composition of the family, the age of any member’s family, the disability status of any members of the family, marital status, actual or perceived sexual orientation, or gender identity.

Additionally, HUD’s final rule entitled “Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs” ensures equal access to individuals in accordance with their gender identity in programs and shelters funded under programs administered by HUD’s Office of Community Planning and Development (CPD). This final rule requires that recipients and sub- recipients of CPD funding, as well as owners, operators, and managers of shelters, and other buildings and facilities and providers of services funded whole or in part by any CPD program to grant access to such facilities, other buildings, benefits,

accommodations, and services to individuals in accordance with the individual’s gender identity, and in a manner that affords equal access to the individual’s family.

Program Accessibility for Persons with Hearing Impairments

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

Auxiliary Aids and Services

The term ‘auxiliary aids and services may include:

(1) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

- (2) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
- (3) Acquisition or modification of equipment or devices; and
- (4) Other similar services and actions.

**EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER
FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]**

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

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

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

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

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

The definition of a person with disabilities does not include:

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

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

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

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

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

This chapter contains three parts:

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

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

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

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c); HUD-50058 IB, p. 13; FR Notice 02/03/12]

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

Family

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

BCHA Policy

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

Each family must identify the individuals to be included in the family at the time of application, and must notify BCHA if the family's composition changes.

Household

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

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup [24 CFR 982.315; Notice PIH 2017-08]

Except under the following conditions, the PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16-IX. D of this plan.)
- In accordance with Notice PIH 2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator’s HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator’s HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD–VASH voucher, which must be issued to another eligible family upon the voucher’s turnover.
- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the PHA is bound by the court’s determination of which family members continue to receive assistance.

BCHA Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

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

In the absence of a judicial decision or an agreement among the original family members, BCHA will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, BCHA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a family” and there is no assisted family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I. B, for the policy on “Caretakers for a Child.”

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

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

BCHA Policy

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

A Minor who is emancipated under state law may be designated as head of household.

The head of household must have the legal capacity to enter into a lease under state and local law.

3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13]. *Spouse* means the marriage partner of the head of household.

BCHA Policy

A *marriage partner* includes the partner in a domestic partnership as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who are not legal domestic partners. A minor who is emancipated under state law may be designated as a spouse.

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

BCHA Policy

Minors who are emancipated under state law may be designated as a co-head. *Other adult* means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

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

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

Joint Custody of Dependents

BCHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family for more than six months of the time.

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

3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]

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

Identifying each FTS is important because: (1) each family member that is 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.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403, FR Notice 02/03/12]

Elderly Persons

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

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance as described in Chapter 6.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Persons with Disabilities

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

As discussed in Chapter 2, the PHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter 6.

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

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

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

BCHA Policy

A guest can remain in the assisted unit as specified in the lease agreement or no longer than 14 consecutive days during any 12-month period.

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

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

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

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

Foster children and foster adults who are living with an applicant or who have been approved by the PHA to live with a participant family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].

BCHA Policy

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

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

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

BCHA Policy

Generally, any family member who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

BCHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to BCHA indicating that the student has established a separate household (non-student affiliated housing) or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care [24 CFR 5.403]

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

BCHA Policy

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

Absent Head, Spouse, or Co-head

BCHA Policy

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

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

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

BCHA Policy

An individual confined to a nursing home, assisted living facility, or medical facility on a permanent basis is not considered a family member.

BCHA will request verification of the family member's absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and BCHA will consider, any additional documentation or evidence.

Return of Permanently Absent Family Members

BCHA Policy

The family must request BCHA approval for the return of any adult family members that BCHA previously determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

3-I.M. LIVE-IN AIDE

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

The PHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

The income of a live-in aide is not counted in the calculation of annual income for the family [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

BCHA Policy

A family's request for a live-in aide must be made to an assigned specialist or program staff. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member. For continued approval, the family must submit a new request-subject to BCHA verification-at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services. (3) understands he/she cannot change their status from live-in aide to household member at any time.

BCHA will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person commits or has committed drug-related criminal activity or violent criminal activity; or any activity that could endanger the right to peaceful living of other residents, and/or

The person currently owes rent or other amounts to the PHA or to another PHA in connection with Housing Choice Voucher program (formerly known as Section 8) or public housing assistance under the 1937 Act.

The person was evicted from assisted housing for any criminal activity

BCHA will notify the family of its decision in writing in accordance with policies outlined in Chapter 2.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

Definitions of the Income Limits [24 CFR 5.603(b)]

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

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

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. In order to be income eligible, an applicant family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4; 24 CFR 982.201(b)]

BCHA Policy

BCHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from BCHA's waiting list.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173

- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

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

BCHA Policy

BCHA has not established any additional categories of eligible low-income families.

Using Income Limits for Targeting [24 CFR 982.201]

At least 75 percent of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families.

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

BCHA Policy

Family members who declare citizenship or national status will not be required to provide additional documentation unless BCHA receives information indicating that an individual's declaration may not be accurate.

Eligible Noncitizens

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

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section

141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a no contending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. BCHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

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

Mixed Families

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

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

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

BCHA Policy

BCHA will not provide assistance to a family before the verification of at least one family member.

When BCHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 30 calendar days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with BCHA. The informal hearing with BCHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must

also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16.

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

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

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

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

BCHA Policy

BCHA will verify the citizenship status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2012-10]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and documents the child's SSN within 90 days of the effective date of the initial HAP contract. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230; HCV GB, p. 5-13]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, the form HUD-52675 Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

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

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/2016]

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

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from their parents in accordance with BCHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

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

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions FR Notice 4/10/06 [FR Notice 9/21/2016].

Dependent Child

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

Independent Student

BCHA Policy

BCHA will consider a student “independent” from their parents and the parents’ income will not be considered when determining the student’s eligibility if the following four criteria are all met:

1. The individual is of legal contract age under state law.
2. The individual has established a household separate from their parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.

To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

The individual is at least 24 years old by December 31 of the award year for which aid is sought

The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

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

The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes

The individual is a graduate or professional student

The individual is married

The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

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

A financial aid administrator

The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

3. The individual was not claimed as a dependent by their parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
4. The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

If BCHA determines that an individual meets the definition of a *vulnerable youth* such a determination is all that is necessary to determine that the person is an *independent student* for the purposes of using only the student's income for determining eligibility for assistance.

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

Institution of Higher Education

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

Parents

BCHA Policy

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

Person with Disabilities

BCHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

Veteran

BCHA Policy

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

Vulnerable Youth

BCHA Policy

A *vulnerable youth* is an individual who meets the U.S. Department of Education's definition of *independent student* in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older

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

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

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

A financial aid administrator

Determining Student Eligibility

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

BCHA Policy

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

Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program

Determine whether the student is independent from their parents in accordance with the definition of *independent student* in this section

Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

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

Determining Parental Income Eligibility

BCHA Policy

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

If the student's parents are married and living together, BCHA will obtain a joint income declaration and certification of joint income from the parents.

If the student's parent is widowed or single, BCHA will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, BCHA will obtain an income declaration and certification of income from each parent.

If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, BCHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. BCHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

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

3-II.F. EIV SYSTEM SEARCHES [Notice PIH 2018-18; EIV FAQs; EIV System Training 9/30/20]

Existing Tenant Search

Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

BCHA policy

BCHA will contact the PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The PHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to PHAs and Terminations

All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

BCHA policy

BCHA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

BCHA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the PHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

Income and Income Validation Tool (IVT) Reports

For each new admission, the PHA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The PHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16].

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

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

Denial of assistance includes any of the following:

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

Prohibited Reasons for Denial of Program Assistance [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, or national origin (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction under portability. (See Chapter 10.)
- 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, sexual assault, or stalking if the applicant is otherwise qualified for assistance (See section 3-III.G.)

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

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

- Any member of the household has been evicted from federally assisted housing in the last 5 years for drug-related criminal activity. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

BCHA Policy

BCHA will admit an otherwise-eligible family who was evicted from federally assisted housing within the past 5 years for drug-related criminal activity if BCHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program, or the person who committed the crime, is no longer living in the household.

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

BCHA Policy

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

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

BCHA Policy

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

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

HUD permits, but does not require, the PHA to deny assistance for the reasons discussed in this section.

Criminal Activity [24 CFR 982.553]

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

BCHA Policy

If any household member is currently engaged in or has engaged in any of the following criminal activities, within the past five years of court case disposition, the family will be denied assistance.

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

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

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

Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of BCHA (including a BCHA employee or a BCHA contractor, subcontractor, or agent).

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

Any conviction for drug-related or violent criminal activity within the past 5 years.

Records of arrests for drug-related or violent criminal activity within the past 5 years, although a record of arrest (s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

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

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

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

PHAs are not permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [24 CFR 984 101 (d)].

BCHA Policy

BCHA **will** deny assistance to an applicant family if:

The family does not provide information that BCHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to BCHA.

Any family member has been evicted from federally assisted housing in the last five years.

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

The family owes rent or other amounts to BCHA in connection with Section 8 or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed BCHA for amounts BCHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

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

When denying admission due to family debts as shown in HUD's EIV system, the PHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.

If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the PHA to support the family's claim. The PHA will consider the information provided by the family prior to issuing a notice of denial.

A family member has engaged in or threatened violent or abusive behavior toward BCHA personnel.

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

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

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

3-III.D. SCREENING

Screening for Eligibility

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

BCHA Policy

BCHA will perform a criminal background check through law enforcement for every adult household member.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, BCHA will request additional documentation and case dispositions. A national criminal background check may be requested.

While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose

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

BCHA Policy

BCHA will use the Dru Sjojin National Sex Offender database to screen applicants for admission.

Additionally, PHAs must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

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

Screening for Suitability as a Tenant [24 CFR 982.307]

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

BCHA Policy

BCHA will not conduct additional screening to determine an applicant family's suitability for tenancy.

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

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

The PHA may not disclose to the owner any confidential information provided to the PHA by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

BCHA Policy

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

3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

BCHA Policy

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

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance

of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 CFR 982.552(c)(2)]

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

BCHA Policy

BCHA will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, sexual assault, or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record of arrest(s) will not be used as the basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, BCHA may obtain the police report and case disposition associated with the arrest and consider the reported circumstances. BCHA may also consider:

Any statements made by witnesses, or the applicant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

BCHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application

Should BCHA'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 PHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)].

BCHA 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 BCHA's request.

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

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

BCHA Policy

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

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the PHA will notify the family in writing and schedule a tenant briefing, as discussed in Chapter 5.

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

BCHA Policy

The family will be notified of a decision to deny assistance in writing within 30 calendar days of the determination.

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

BCHA Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible BCHA 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 business days to dispute the accuracy and relevance of the information. If the family does not contact BCHA to dispute the information within that 10-day period, BCHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault or stalking are contained in Section 3-III.G.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program “on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission.”

Definitions of key terms used in VAWA are provided in section 16-IX of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form HUD-5382 at the time the applicant is denied.

BCHA Policy

BCHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under BCHA’s policies.

While BCHA is not required to identify whether adverse factors that resulted in the applicant’s denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform BCHA that their status as a victim is directly related to the grounds for the denial. BCHA will request that the applicant provide enough information to BCHA to allow BCHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

BCHA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy of the form HUD-5382. BCHA will request in writing that an applicant wishing to claim protection under VAWA notify BCHA within 14 business days.

Documentation

Victim Documentation [24 CFR 5.2007]

BCHA Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault or stalking, BCHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX. D of this plan.

Perpetrator Documentation

BCHA Policy

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

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

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:
Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

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

(A) In General

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

- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) is manifested before the individual attains age 22;
- (iii) is likely to continue indefinitely;
- (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
- (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long continued and indefinite duration; substantially impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

- (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* mean functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

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

(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

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

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION
[20 U.S.C. 1001 and 1002]

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]

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

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

- (a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that
- (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
 - (2) Is legally authorized within such State to provide a program of education beyond secondary education;
 - (3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
 - (4) Is a public or other nonprofit institution; and
 - (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.
- (b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term “institution of higher education” also includes—
- (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
 - (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students’ persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that

the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

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

Definition of institution of higher education for purposes of student assistance programs:

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

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

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

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

(2) Institutions outside the United States

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

In the case of a graduate medical school located outside the United States—

(i) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(ii) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing

score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

- (b) The institution has a clinical training program that was approved by a State as of January 1, 1992; or in the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(3) Advisory panel

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

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

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

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

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

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

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

- (a) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

- (b) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the

case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

- (c) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or
 - (d) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.
- (5) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—
- (a) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or
 - (b) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.
- (6) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.
- (7) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of

subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(A) Proprietary institution of higher education

- (1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that—
 - (a) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
 - (b) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;
 - (c) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;
 - (d) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;
 - (e) Has been in existence for at least 2 years; and
 - (f) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.
- (2) Additional institutions. The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students’ persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(B) Postsecondary vocational institution.

- (1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—
 - (a) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
 - (b) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
 - (c) Has been in existence for at least 2 years.
- (2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students’ persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

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

The PHA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

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

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

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

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

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

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the PHA policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

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

BCHA Policy

Depending upon the length of time that applicants may need to wait to receive assistance, BCHA may use a one- or two-step application process.

A one-step process will be used when it is expected that a family will be selected from the waiting list within sixty business days of the date of application. At application, the family must provide all of the information necessary to establish family eligibility and level of assistance.

A two-step process will be used when it is expected that a family will not be selected from the waiting list for at least sixty business days from the date of application. Under the two-step application process, BCHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Families may obtain application forms from BCHA's office during normal business hours. Families may also request – by telephone or by mail – that an application be mailed to them via first class mail.

Completed applications must be returned to BCHA by mail, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by BCHA for processing. If an application is incomplete, BCHA will notify the family of the additional information required.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

Limited English Proficiency

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

4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each complete application received and make a preliminary assessment of the family’s eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

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

Ineligible for Placement on the Waiting List

BCHA Policy

If BCHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, BCHA will send written notification of the ineligibility determination within ten business days of receiving a complete application. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

Eligible for Placement on the Waiting List

BCHA Policy

BCHA will send written notification of the preliminary eligibility determination within ten business days of receiving a complete application.

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by BCHA.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

In addition, HUD imposes requirements on how a PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

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

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

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

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

BCHA Policy

BCHA will maintain a single waiting list for the HCV program.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program BCHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs.

HUD permits, but does not require, that BCHA maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

BCHA Policy

BCHA will not merge the HCV waiting list with the waiting list for any other program BCHA operates.

4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

Closing the Waiting List

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

BCHA Policy

BCHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches twenty-four months for the most current applicants. Where BCHA has particular preferences or funding criteria that require a specific category of family, BCHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

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

BCHA Policy

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

BCHA will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

The Sun Sentinel, The Westside Gazette and website: www.bchafl.org

4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

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

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

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

- Analyzing the housing market area and the populations currently being served to identify underserved populations
 - Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
 - Avoiding outreach efforts that prefer or exclude people who are members of a protected class
- PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:
- Submitting press releases to local newspapers, including minority newspapers
 - Developing informational materials and flyers to distribute to other agencies
 - Providing application forms to other public and private agencies that serve the low-income population
 - Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

BCHA Policy

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

BCHA Policy

While the family is on the waiting list, the family must immediately inform BCHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing.

4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

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

Purging the Waiting List

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

BCHA Policy

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

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

The family's response must be in writing and may be delivered in person, by mail, or by fax. Responses should be postmarked or received by BCHA not later than fifteen business days from the date of BCHA letter.

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

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have fifteen business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, BCHA may reinstate the family if it is determined that the lack of response was due to BCHA error, or to circumstances beyond the family's control.

Removal from the Waiting List

BCHA Policy

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

If a family is removed from the waiting list because BCHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding BCHA's decision (see Chapter 16) [24 CFR 982.201(f)].

PART III: SELECTION FOR HCV ASSISTANCE

4-III.A. OVERVIEW

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

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

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

4-III.B. SELECTION AND HCV FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The PHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

BCHA Policy

BCHA administers the following types of targeted funding:

Continuum of Care/Shelter Plus Care	Moderate Rehabilitation
Family Unification Program	Non-Elderly Disabled (NED)
Mainstream Program	Emergency Housing Vouchers (EHV)
Foster Youth to Independence (FYI)	HUD-VASH

Regular HCV Funding

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

4-III.C. SELECTION METHOD

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

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

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

BCHA Policy

BCHA will use the following local preferences:

1. BCHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.
2. BCHA will offer a preference to families that include victims of domestic violence, dating violence, sexual assault, or stalking who are seeking an emergency transfer under VAWA from BCHA's Multi-family program or other covered housing program operated by BCHA. The applicant must certify that the abuser will not reside with the applicant unless BCHA gives prior written approval.
3. Residents in Building Better Communities' Multi-Family Project Based - Rental Assistance who request a Choice Mobility Voucher or Family Right to Move Voucher.
4. Any elderly or disabled head of household, spouse, or co-head as defined in 24 CFR 5.100 and 5.403. The waiting list is ordered by preference, and lottery.
5. Any household composed of one (1) or more non-elderly persons age 18-62 with disabilities, which may include additional household members who are not non-elderly persons with disabilities and are homeless, at risk of homelessness, transitioning out of an institution or at serious risk of institutionalization. A household where the sole member is an emancipated minor is not an eligible household. This preference is limited to seventy-nine (79) Qualified applicants. The waiting list is ordered by seventy-nine (79) vouchers, preference, and lottery.

BCHA will first assist families that have been terminated from the HCV program due to insufficient funding and then assist families that qualify for the VAWA preference.

The Emergency Housing Voucher program has separate local preferences as outlined in Chapter 18 – Special Programs.

Income Targeting Requirement [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least seventy-five percent (75%) of the families admitted to the HCV program during the PHA's fiscal year. ELI families are those with annual incomes at or below thirty percent (30%) of the area median income. To ensure this requirement is met, a PHA may skip non-ELI families on the waiting list in order to select an ELI family.

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

BCHA Policy

BCHA will monitor progress in meeting the income targeting requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

Order of Selection

The PHA system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery) [24 CFR 982.207(c)]. If a PHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

BCHA Policy

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with BCHA's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by BCHA. Documentation will be maintained by BCHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that BCHA does not have to ask higher placed families each time targeted selections are made.

BCHA employs the following system of local preferences in administering its waiting list. The Assisted Housing Department may establish a point system or any other workable system which will ensure compliance with this section. Preferences may be changed from time to time. BCHA will make changes following approval from the Board of Commissioners.

- a) Priority 1 Preference-Special Circumstances
 - i. Families who qualify for admission due to Special Circumstances receive a Priority 1 preference. BCHA will admit a Priority 1 preference to the Section 8 program before all other applicants (See Referrals due to a Special Circumstance-Section F of this Chapter).
- b) Applicants: BCHA uses the following local preferences system:
 - i. BCHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding.
 - ii. BCHA will offer a preference to families that include victims of domestic violence, dating violence, sexual assault, or stalking who are seeking an emergency transfer under VAWA from BCHA's Multi-family program or other covered housing program operated by BCHA. The applicant must certify that the abuser will not reside with the applicant unless BCHA gives prior written approval.
 - iii. Residents in Building Better Communities' Multi-Family Project Based Rental Assistance who request a Choice Mobility Voucher or Family Right to Move Voucher.
 - iv. Any elderly or disabled head of household, spouse, or co-head as defined in 24 CFR 5.100 and 5.403. The waiting list is ordered by preference, and lottery.
 - v. Any household composed of one (1) or more non-elderly persons aged 18-62 with disabilities, which may include additional household members who are not non-elderly persons with disabilities and are homeless, at risk of homelessness, transitioning out of an institution or at serious risk of institutionalization. A household where the sole member is an emancipated minor is not an eligible household. This preference is limited to seventy-nine (79) Qualified applicants. The waiting list is ordered by seventy-nine (79) vouchers, preference and lottery.
- c) The Waiting List.
 - i. The Waiting list will open to serve the general public.
 - ii. The Waiting list is ordered by a lottery draw and weighted.
 - Elderly/Disabled
 - Families

EXCEPTIONS FOR SPECIAL ADMISSIONS [24 CFR 982.203, 982.54(D)(3)]

Special admissions families will be admitted outside of the regular waiting list process. PHA operates a number of programs which serve special populations, special needs or which were designed for special purposes. For these populations and programs, applicants are generated by referral from various community organizations or divisions of local government which are under a Memorandum of Understanding (MOU) or a Contract with the PHA. They do not have to qualify for any preferences, nor are they required to be on the regular voucher program waiting list. PHA

programs qualifying for special admissions include Family Unification Program, *Continuum of Care/ Shelter Plus Care, Non-Elderly Disabled (NED)* Mainstream Disabilities, FY 2017 Mainstream Program, Veteran's Administration Supportive Housing (VASH), Foster Youth to Independence (FYI), and Emergency Housing Vouchers (EHV). The PHA maintains separate records of these admissions.

REFERRALS DUE TO SPECIAL CIRCUMSTANCES

Referred families who meet the criteria below are immediately placed on the waiting list and receive a Priority 1 preference over other applicants.

1. Referrals due to special circumstances multi-family residents who require "reasonable accommodation" due to disabilities where BCHA cannot provide accommodation within the Multi-family programs.
2. Families that are in over housed or under housed conditions within the Agency's Mod Rehab or Multi Family Programs. Conditions for acceptance of these families are:
 - i. There is no unit of appropriate size within the Mod Rehab or Multi Family Program to adequately house the family.
 - ii. The Family is employed in an area of the county that if relocated would pose a hardship or loss of employment.
3. Residents of Broward County Housing Authority's Multi Family Program that are displaced as a result of a disaster as defined in 24 CFR Part 5, Subpart D Definitions for Section 8 and Public Housing Assistance under the United States Act of 1937, 5.403 Definitions.
4. Residents of Broward County Housing Authority's Multi-Family Programs who may be displaced due to demolition or disposition of their Multi Family units.
5. Any family that has been terminated from the Housing Choice Voucher Program due to insufficient program funding.
6. Remaining family members from a VASH household where the eligible Veteran Head of Household passes away or abandons the unit/family.
7. Remaining family members from a Continuum of Care/Shelter Plus Care household where the eligible participant passes away or abandons the unit/family.
8. Continuum of Care/Shelter Plus Care participants with no or very low supportive service need may be referred to BCHA for placement on the HCV tenant based- waiting list.
9. Families housed in BCHA Project Based Voucher Program that terminate the lease after the first year of occupancy will be offered the opportunity for continued assistance in either the voucher program or other tenant-based assisted unit.

TARGETED FUNDING [24 CFR 982.203]

The Broward County Housing Authority has received grants for the following Programs listed below. A separate waiting list will be maintained for people applying for each program. In all other respects this list shall be kept like the Section 8 Voucher Program Waiting list. The Programs are:

Continuum of Care/Shelter Plus Care	Moderate Rehabilitation
Family Unification Program	Emergency Housing Vouchers (EHV)
Foster Youth to Independence (FYI)	HUD-VASH

The order of selection is based on the PHA's system of date and time of application and claimed preference. Seventy-five percent (75%) of new admissions to the program must be at or below thirty percent (30%) of the area median income.

FINAL VERIFICATION OF PREFERENCES [24 CFR 5.415]

Preference information on applications will be updated as applicants are selected from the waiting list. At that time, the PHA will mail a Preference Verification letter with other information to the applicant's last known address, requesting verification of the family's preference claim and mail third party verifications as applicable. The family will be asked to bring or mail in other detailed information.

PREFERENCE DENIAL [24 CFR 5.415]

If the PHA denies a preference, the PHA will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal meeting. If the preference denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against. If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the Waiting List.

4-III.D. NOTIFICATION OF SELECTION

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

BCHA Policy

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

Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

Who is required to attend the interview?

All documents that must be provided at the interview, including information about what constitutes acceptable documentation

If a notification letter is returned to BCHA with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

4-III.E. THE APPLICATION INTERVIEW

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

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2012-10].

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

BCHA Policy

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

The head of household and the spouse/co-head will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/co-head may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to BCHA.

The head of household or spouse/co-head must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity.) If the family representative does not provide the required documentation at the time of the interview, he or she will be required to provide it within fifteen business days.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, BCHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within fifteen business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame, (including any extensions), the family will be sent a notice of denial (See Chapter 3).

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

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

If the family is unable to attend a scheduled interview, the family should contact BCHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, BCHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without BCHA approval will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies contained in Chapter 3.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

BCHA Policy

If BCHA determines that the family is ineligible, BCHA will send written notification of the ineligibility determination within 30 calendar days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review (Chapter 16).

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

If BCHA determines that the family is eligible to receive assistance, BCHA will invite the family to attend a briefing in accordance with the policies in Chapter 5.

Chapter 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

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

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

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

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

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

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

5-I.B. BRIEFING [24 CFR 982.301]

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

BCHA Policy

Briefings will be conducted individually or in group meetings.

The head of household and all adult family members are required to attend the briefing. If the head of household is unable to attend and requires a reasonable accommodation, BCHA may approve another adult family member to attend the briefing.

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

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

Notification and Attendance

BCHA Policy

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

If the notice is returned by the post office with no forwarding address, the applicant will be denied, and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will be scheduled for another briefing automatically. BCHA will notify the family of the date and time of the second scheduled

briefing. Applicants who fail to attend two scheduled briefings, without prior BCHA approval, will be denied assistance (see Chapter 3).

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- The PHA must inform the family of 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;
 - The advantages of areas that do not have a high concentration of low-income families;
 - For families eligible under portability, an explanation of portability. The PHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and a briefing packet.

In briefing a family that includes a person with disabilities, PHA must also take steps to ensure effective communication.

Briefing Packet [24 CFR 982.301(b); New HCV GB, *Housing Search and Leasing*, p. 7]

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

- The term of the voucher, and the PHA's policies on any extensions or suspensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit 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 that may affect the family's assistance.

- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled, "A Good Place to Live").
- Information on federal, state, and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint.
- Online list of landlords who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) that may assist the family in locating a unit. PHA encourages the participation of landlords in areas outside of poverty or minority concentration
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family, and any obligations of other special programs if the family is participating in one of those programs.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.
- The HUD pamphlet on lead-based paint entitled, "Protect Your Family from Lead in Your Home."

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

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

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

Additional Items to Be Included in the Briefing Packet

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH 2017-12].

BCHA Policy

BCHA will provide the following additional materials in the briefing packet:

The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*

The HUD pamphlet on *A Good Place to Live*

Information on how to fill out and file a housing discrimination complaint form

The form HUD-5380 domestic violence certification form and the form HUD-5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking

“Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

5-I.C. FAMILY OBLIGATIONS

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

Time Frames for Reporting Changes Required by Family Obligations

BCHA Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify BCHA of a change, notifying BCHA of the request or change within fifteen business days is considered prompt notice.

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

Family Obligations [24 CFR 982.551]

The family obligations of the voucher are listed as follows:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- 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.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

BCHA Policy

BCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

BCHA Policy

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

- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA 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.

BCHA Policy

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

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (sections I.K and I.M), and Chapter 11 (section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

BCHA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

BCHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than thirty calendar days. Written notice must be provided to BCHA at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. (See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity).

- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. (See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse).
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state, or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. DETERMINATION OF SUBSIDY STANDARDS AND VOUCHER SIZE (24 CFR 982.54(d)(9))

HUD guidelines require that PHA's establish subsidy standards for the determination of and Voucher bedroom size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the Voucher size also must be within the minimum unit size requirements of HUD's Housing Quality Standards (HQS).

The PHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The PHA must also establish policies related to the issuance of the voucher, the voucher term, and to any extensions or suspensions of the voucher term.

5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

For each family, the PHA determines the appropriate number of bedrooms under the PHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

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

- Head of Household (HOH and Spouse/Co-Head will be allocated a bedroom).
- 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 24 CFR 982.402, See § 982.401 (d).
- The subsidy standards must be applied consistently for all families of like size and composition.
- Foster Children (or those who present guardianship papers) will be included in determining unit size only if they will be in the unit for more than 12 months as confirmed by the placing agency or the courts.
- Adult of the opposite sex (other than spouse) will be allocated a separate bedroom. If a minor child will be 18 during the lease term, he/she will be considered an adult when determining bedroom size.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.

- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size. Additional bedrooms will not be supplied for family of the live-in aide
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

BCHA Policy

BCHA will assign one (1) bedroom for each two (2) persons within the household, except in the following circumstances:

- Persons of the opposite sex (other than the head of household and spouse/co-head) will be allocated separate bedrooms.
- Live-in aides will be allocated a separate bedroom. Additional bedrooms will not be supplied for family of the Live-In Aide
- Single person families will be allocated one bedroom.

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

- Live-in aides who reside in the unit full time will be allocated a separate bedroom. (No additional bedrooms will be allocated to family members of the live-in aide).
- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition

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

BCHA Policy

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

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

BCHA will follow policies in Chapter 2: Fair Housing and Equal Opportunity

Medical Need for Larger voucher size

A standardized Reasonable Accommodation form will be completed by both the participant and a knowledgeable professional that will describe the requested accommodation and explanation on how the accommodation will remove or reduce the barrier to housing. Medical need may include the need for a live-in caregiver/aide or excessive medical equipment.

BCHA Error

If BCHA errors in the bedroom size designation, the family will be issued a Voucher of the appropriate size at the next re-examination.

Changes for Applicants

The Voucher size is determined prior to the briefing by comparing the family compositions to BCHA subsidy standards. If an applicant required a change in the voucher size, based on the requirements of BCHA subsidy standards, the above references guidelines will apply.

Changes for Participants

The members of the family residing in the unit must be approved by BCHA. The family must obtain written approval from the Housing Authority for any additional individual family member before the person occupies the unit, except for additions by birth, adoption, or court-awarded custody, in which case the family must inform BCHA within 30 calendar days. Additionally, the family must notify the Housing Authority in writing if any family member no longer lives in the unit.

1. If a member is reported as permanently absent from the unit, that member will not be permitted to be added to the application again in the future. Exception may be made based on needs of a disabled household.
2. BCHA will deny request to add families to an existing application unless the addition is due to a married couple combining families.

Under-housed and Over-housed Families

If a unit does not meet HQS space standards due to an increase in family size, (unit is too small), BCHA will issue a new voucher of the appropriate size and allow the family to locate a suitable unit at the next re-examination.

5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the PHA issues a Housing Choice

Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the PHA has determined the family to be eligible for the program, and that the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the PHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the PHA's housing choice voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after the PHA has determined that the family is eligible for the program based on verification of information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

BCHA Policy

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

BCHA Policy

Prior to issuing any vouchers, BCHA will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

If BCHA determines that there is insufficient funding after a voucher has been issued, BCHA may rescind the voucher and place the affected family back on the waiting list.

5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

Voucher Term [24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

BCHA Policy

The initial voucher term will be sixty calendar days.

The family must submit a Request for Tenancy Approval (RTA) and proposed lease within the sixty-day period unless BCHA grants an extension.

Extensions of Voucher Term [24 CFR 982.303(b)]

The PHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's administrative plan [24 CFR 982.54].

PHA'S must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of the PHA's decision to approve or deny an extension. The PHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

BCHA Policy

BCHA will approve up to two (2) thirty-day extensions upon written request from the family in thirty-day increments. BCHA will approve additional extensions only in the following circumstances:

It is necessary as a reasonable accommodation for a person with disabilities.

It is necessary due to reasons beyond the family's control, as determined by BCHA. Following is a list of extenuating circumstances that BCHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

Serious illness or death in the family

Other family emergency

Obstacles due to employment

Whether the family has already submitted requests for tenancy approval that were not approved by BCHA

Whether family size or other special circumstances make it difficult to find a suitable unit

Any request for an additional extension must include the reason(s) an additional extension is necessary. BCHA may require the family to provide documentation to support the request or obtain verification from a qualified third party.

All requests for extensions to the voucher term must be made in writing and submitted to BCHA prior to the expiration date of the voucher (or extended term of the voucher). BCHA will decide whether to approve or deny an extension request within ten business days of the date the request is received and will immediately provide the family written notice of its decision.

At the discretion of the Assisted Housing Director(s); BCHA may revise the maximum term of the voucher to address rental market conditions, declared disasters or emergencies, whether due to natural calamity (e.g., hurricane), civil disturbance, public health emergencies, or other cause recognized by the Local, State or Federal Government.

Suspensions of Voucher Term [24 CFR 982.303(c)]

At its discretion, a PHA may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher term.

“Suspension” means stopping the clock on a family’s voucher term from the time a family submits the RTA until the time the PHA approves or denies the request [24 CFR 982.4].

The PHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

BCHA Policy

When a Request for Tenancy Approval (RTA) and proposed lease is received by BCHA, the term of the voucher will be suspended while BCHA processes the request. If the clock is stopped and the family is not able to lease-up a credit of the time will be given. The credit of time will be the number of days from the RTA packet was submitted until the date the family was notified, they could not lease-up or the voucher expired.

If the family has reached the maximum extensions permitted and has previously provided an RTA packet where for reasons beyond the family’s control, the family was unable to lease-up prior to the voucher expiration, a credit of time will be given. The credit of time will be the number of days from the date the RTA packet was submitted until the date the family was notified, they could not lease-up or the voucher expired (whichever is sooner).

Expiration of Voucher Term

Once a family’s housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become

ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

BCHA Policy

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), BCHA will require the family to reapply for assistance.

BCHA will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

UNIT SIZE SELECTED (24CFT 982.402(c))

The family may select a different size dwelling other than what's listed on the Voucher. There are three criteria to consider:

Subsidy Limitation: The family unit size as determined for a family under the PHA subsidy standard for a family assisted in the voucher program is based on the PHA's adopted payment standard. The payment standard for a family shall be the lower of:

The payment standard amount of the family size; or

The payment standard amount for the unit size rented by the family.

Utility Allowance: The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's voucher.

Housing Quality Standards: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area). The level may exceed if a room in addition to bedrooms and living rooms is used for sleeping.

The voucher payment standard will be set at no less than ninety percent (90%) of the published FMR for the appropriate bedroom size. Payment Standard may be changed periodically; they may be greater or less than the current payment standard

Chapter 6

INCOME AND SUBSIDY DETERMINATIONS

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

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and PHA policies related to these topics in three parts as follows:

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and PHA policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and PHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [5.609(c)].

(4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I. B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I. D). Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

BCHA Policy

Generally, an individual who is or is expected to be absent from the assisted unit for one hundred-eighty consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than one hundred-eighty consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

BCHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes

available to BCHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

BCHA Policy

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

Absent Head, Spouse, or Co-head

BCHA Policy

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

Family Members Permanently Confined for Medical Reasons

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

BCHA Policy

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

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualifies' as an elderly person or a person with disabilities.

Joint Custody of Dependents

BCHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family more than 6 months of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or

reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, BCHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Absence of Head of Household

If the Head of Household is reported permanently absent by the family, the PHA will request verification (Chapter 7 – II-D) prior to determining if a remaining adult member is eligible to become the new head of household. If the remaining members are minor children reference “Caretakers for a child”

Caretakers for a Child

BCHA Policy

The approval of a caretaker is at the owner and BCHA’s discretion and subject to the owner and BCHA’s screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, BCHA will take the following actions.

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for ninety days. After the thirty days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker’s role is temporary. In such cases BCHA will extend the caretaker’s status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

Family absence from a unit:

Absence means that no member of the Family is residing in the unit.

Absence of up to Thirty Days:

A Family may be absent from the unit for any reason for up to thirty consecutive days.

Absence Greater than Thirty Days:

The Family may not be absent from the dwelling unit for more than thirty days without BCHA written approval. If the Family plans to be absent from the unit for more than thirty days, the Family must request approval from BCHA in writing and provide documentation indicating the reason for the extended absence of the unit. An absence for greater than thirty days may be approved by BCHA for reasons of health, rehabilitation, convalescence, incarceration or the personal needs of the Family. Failure to request and receive approval to be absent from the unit for more than thirty days may result in termination of assistance.

Absence may not exceed 180 days:

A Family's absence from a unit assisted by the Housing Choice Voucher Program may not exceed 180 consecutive calendar days without Exception. If a Family is absent from the unit for more than 180 consecutive calendar days BCHA shall terminate the HAP Contract for the unit.

6-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income "anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date" [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

PHAs are required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows PHAs to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

BCHA Policy

When EIV is obtained and the family does not dispute the EIV employer data, BCHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, BCHA will make every effort to obtain current and consecutive pay stubs dated within the last sixty days.

BCHA will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If BCHA determines additional information is needed.

In such cases, BCHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how BCHA annualized projected income.

When BCHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), BCHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to BCHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If BCHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows: $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$.

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

BCHA Policy

In accordance with PIH Notice 2013-3 Public Housing and Housing Choice Voucher Temporary Compliance Assistance and extended until March 31, 2015 via PIH Notice 2013-26, the PHA will utilize the option to use the participant's actual past income in verifying income.

In determining annual income, BCHA will choose to use either actual past income.

For the purpose of verifying income reported in HUD's Enterprise Income Verification (EIV) system, PHA's that choose to use actual past income must use the most recent 12 months of income information available in EIV. Because this EIV report will give actual earnings data verified by a third party, the program participant is no longer required to provide third party documentation (e.g., paystubs, payroll summary report, unemployment monetary benefit notice).

If there has been a change in circumstances for a tenant, or a tenant disputes the EIV reported income information and is unable to provide acceptable documentation to resolve the dispute, the PHA must request written third-party verification.

For example, if a program participant lost his/her job, changed jobs, or reduced their hours in the months subsequent to the time period covered in EIV, the PHA must use, at the participant's request, the more recent income information verified by participant provided third-party documentation (e.g., paystubs, payroll summary report, unemployment monetary benefit notice) or through written third-party verification, which reflects the new or current work circumstance.

PHA will continue to verify income from sources not available in EIV. However, PHAs must use the same time period for both wage and non-wage income. Should HUD issue notice of extension on the provision, the policy will remain in place.

6-I.D. EARNED INCOME

Types of Earned Income Included in Annual Income

Wages and Related Compensation

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

BCHA Policy

For persons who regularly receive bonuses or commissions, BCHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, BCHA will use the prior year amounts. In either case the family may provide, and BCHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet

received any bonuses or commissions, BCHA will count only the amount estimated by the employer. The file will be documented appropriately.

Some Types of Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8)] except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

BCHA Policy

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of *foster children*.)

Certain Earned Income of Full-Time Students

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 CFR 5.609(c)(11)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work-study program (20 U.S.C. 1087 uu)

- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

BCHA Policy

BCHA defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

BCHA defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, BCHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with BCHA's interim reporting requirements.

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

BCHA Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

Earned Income Tax Credit

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617, Streamlining Final rule (SFR) Federal Register 3/8/2016]

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

Eligibility

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].

New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

BCHA Policy

Any new EID beginning 5/9/2016 will be subject to new calculation and time frames per Streamlining Final Rule (SFR) Federal Register 3/8/2016. The lifetime maximum has been reduced from forty-eight months to consecutive twenty-four months.

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant (as a baseline) throughout the period that he or she is participating in the EID. While qualification for the disallowance is the same for all families, calculation of the disallowance will differ depending on when the family member qualified for the EID. Participants qualifying prior to May 9, 2016, will have the disallowance calculated under the "Original Calculation Method" described below which requires a maximum lifetime disallowance period of up to 48 consecutive months. Participants qualifying on or after May 9, 2016, will be subject to the "Revised Calculation Method" Which shortens the lifetime disallowance period to 24 consecutive months.

Under both the original and new methods, the EID eligibility criteria, the benefit amount, the single lifetime eligibility requirement and the ability of the applicable family member to stop and restart employment during the eligibility period are the same.

Original Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

BCHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In

During the second exclusion period of twelve consecutive months, BCHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

BCHA Policy

During the second twelve-month exclusion period, BCHA will exclude fifty percent (50%) of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

BCHA Policy

During the forty-eight -month eligibility period, BCHA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

Revised Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

BCHA Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion

During the second exclusion period of 12 consecutive months, PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

BCHA Policy

During the second twelve-month exclusion period, BCHA will exclude fifty percent (50%) of any increase in income attributable to new employment or increased earnings.

Lifetime Limitation

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].

Business Expenses

Net income is “gross income less business expense” [HCV GB, p. 5-19].

BCHA Policy

To determine business expenses that may be deducted from gross income, BCHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

BCHA Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

BCHA Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means BCHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

BCHA Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, BCHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

BCHA Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)]

Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-3 provides the regulatory definition of *net family assets*.

This section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

General Policies

Income from Assets

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to 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. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

BCHA Policy

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to BCHA to show why the asset income determination does not represent the family's anticipated asset income.

Valuing Assets

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

BCHA Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for the PHA to establish a passbook rate within 0.75 percent of a national average.
- The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

BCHA Policy

BCHA will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

BCHA will review the passbook rate annually, in December of each year. The rate will not be adjusted unless the current BCHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

Changes to the passbook rate will take effect on February 1 following the December review.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property’s market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

BCHA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, BCHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, BCHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, BCHA will prorate the asset evenly among all owners.

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The *HCV Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

BCHA Policy

BCHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual reexaminations the family may request an interim reexamination to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

BCHA Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

BCHA Policy

Families will declare on the pre-application at initial certification and each annual reexamination 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. BCHA may verify the value of the assets disposed of if other information available to BCHA does not appear to agree with the information reported by the family.

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

BCHA Policy

In determining the value of a checking or savings account, BCHA will use the current balance.

In determining the value of a savings account, BCHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, BCHA will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

BCHA Policy

In determining the market value of an investment account, BCHA 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), BCHA will calculate asset income based on the earnings for the most recent reporting period.

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

BCHA Policy

In determining the equity, BCHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

BCHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, BCHA will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

BCHA Policy

For the purposes of calculating expenses to convert to cash for real property, BCHA will use ten percent (10%) of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

BCHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless BCHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Non-revocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

BCHA Policy

In determining the value of personal property held as an investment, BCHA will use the family's estimate of the value. BCHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

BCHA Policy

Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14].

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)] .

BCHA Policy

When a delayed-start payment is received and reported during the period in which BCHA is processing an annual reexamination, BCHA will adjust the family share and BCHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with BCHA.

Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2012-1].

BCHA Policy

BCHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as

Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

BCHA Policy

BCHA will count court-awarded amounts for alimony and child support unless BCHA verifies that: the payments have not been made during the last three consecutive months.

Due to BCHA's interim change policy, the participant does not need to report the receipt of a lump sum child support payment as an interim change. In the event the tenant does report the additional payment, BCHA will not increase the tenant's income or rent (reference HUD Q&A). If the lump sum payment is made periodically over time (ex. Once a year, every year or every six months), the income will be counted at reexamination.

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

BCHA Policy

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by BCHA. For contributions that may vary from month to month (e.g., utility payments), BCHA will include an average amount based upon past history.

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9) Notice PIH 2015-21]

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06; Notice PIH 2015-21]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source,

or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition and fees* are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].
 - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
 - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
 - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
 - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
- Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II. E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17), FR Notice 5/20/14]. HUD publishes an updated list of these exclusions periodically. It includes:
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
 - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
 - (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (e) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 - (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
 - (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
 - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S. C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida.
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Childcare and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in

accordance with the provisions codified at 24CGR 5.609 (b)(9), except for those person with disabilities as defined by 42 U.S.C. 1437a(b)(3)E (Pub.L.10-249) (See section 6-1.L. for exceptions.)

- (v) Allowance earnings and payments to AmeriCorps participant under the National and Community Service Act of 1990 (42 U.S.C. 12637(d).
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in “individual development account” as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PHI 2013-30, “Exclusion from Income Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
 - (i) Unreimbursed medical expenses of any elderly family or disabled family;
 - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

BCHA Policy

Generally, BCHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), BCHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, BCHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. BCHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

An allowance of \$480 is deducted from annual income for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

BCHA Policy

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, non-cosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor	Cost and continuing care of necessary service animals
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

BCHA Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, BCHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

BCHA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, BCHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When BCHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work” [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

BCHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals

trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

BCHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, BCHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

BCHA Policy

BCHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, BCHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and BCHA will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Medical and Disability Assistance Expenses

BCHA Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, BCHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILDCARE EXPENSE DEDUCTION

HUD defines *childcare expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family’s household are included when determining the family’s childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

BCHA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, BCHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

BCHA Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by BCHA.

Furthering Education

BCHA Policy

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

BCHA Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Childcare Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, childcare expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

BCHA Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, BCHA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Childcare Expenses

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

Allowable Childcare Activities

BCHA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, BCHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seeks employment, or further his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

BCHA Policy

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, BCHA will use the schedule of childcare costs from the local welfare agency. Families may present, and BCHA will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP Formula [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the PHA

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

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

Welfare Rent [24 CFR 5.628]

BCHA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

BCHA Policy

The minimum rent for this locality is \$50.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed forty percent (40%) of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

PHA Subsidy [24 CFR 982.505(b)]

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b);982.514(c)]

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

BCHA Policy

BCHA will issue all utility reimbursements monthly.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

BCHA Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

BCHA Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

BCHA Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

BCHA Policy

BCHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

BCHA Policy

BCHA defines temporary hardship as a hardship expected to last ninety days or less. Long-term hardship is defined as a hardship expected to last more than ninety days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption			
Assume the PHA has established a minimum rent of \$35.			
Family Share – No Hardship		Family Share – With Hardship	
\$0	30% of monthly adjusted income	\$0	30% of monthly adjusted income
\$15	10% of monthly gross income	\$15	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
\$35	Minimum rent	\$35	Minimum rent
Minimum rent applies.		Hardship exemption granted.	
TTP = \$35		TTP = \$15	

BCHA Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family’s ability to pay the minimum rent.

BCHA will make the determination of hardship within thirty business days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

BCHA Policy

BCHA will require the family to repay the suspended amount within thirty business days of BCHA’s notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family’s request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed, and the hardship is now a long-term hardship.

BCHA Policy

BCHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

BCHA Policy

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505;982.503(b)]

Overview

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

When the PHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases

If a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the PHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16] However, if the PHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The PHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

BCHA Policy

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the initial reduction in the payment standard amount used to calculate the family's HAP will be applied at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard.

Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. 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 PHA subsidy standards, whichever is the lower of the two. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB, p. 18-8].

BCHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PHA subsidy for a family is calculated at \$500 and two of four family members are ineligible, the PHA subsidy would be reduced to \$250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(a) Annual income means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

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

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

- (6) Welfare assistance payments.
- (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
- (A) Qualify as assistance under the TANF program definition at 45 CFR 260.31¹; and
- (B) Are not otherwise excluded under paragraph (c) of this section.
- (ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
- (A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
- (B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
- (8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS	DEFINITION	OF
"ASSISTANCE"		

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

- (a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).
- (2) It includes such benefits even when they are:
- (i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and
- (ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

¹ Text of 45 CFR 260.31 follows.

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of “assistance”] excludes:

(1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;
(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

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

(iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;

(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;

(9) Temporary, nonrecurring or sporadic income (including gifts);

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

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts

, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See Section 6-I.M. for a list of benefits that qualify for this exclusion.]

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received 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 important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

(a) Applicable programs.

The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) Definitions. The following definitions apply for purposes of this section.

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who

is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least \$500.

(c) Disallowance of increase in annual income—

(1) Initial twelve-month exclusion.

During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve-month exclusion and phase-in. Upon expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to *May 9, 2016* will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable)

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the

family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and

the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

Chapter 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2017-12]

INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in Notice PIH 2017-12 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and asset's, and Part IV mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2017-12]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

In order of priority, the forms of verification that the PHA will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-Party Verification (may be provided by applicant or participant)
- Written Third-party Verification Form
- Oral Third-party Verification

- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Documents

BCHA Policy

Any documents used for verification must be dated within sixty days of the date they are requested by BCHA. The documents must not be damaged, altered or in any way illegible.

Print-outs from Web pages are considered original documents.

Any family self-certifications must be made in a format acceptable to BCHA and must be signed by the family member whose information or status is being verified.

File Documentation

The PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

BCHA Policy

BCHA will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing adjusted income

When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available (982.516(a) (2); Notice PIH 2017-12].

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been

granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

See Chapter 6 for the PHA's policy on the use of UIV/EIV to project annual income.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during a mandatory reexamination or reexamination of family composition and income in accordance with 24CFR5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

EIV Income Reports

The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

BCHA Policy

BCHA will view income reports for annual and interim reexaminations process.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files with the applicable annual or interim reexamination documents.

When BCHA determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2017-12].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

BCHA Policy

BCHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

BCHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant.

When BCHA determines that discrepancies exist due to BCHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

BCHA Policy

BCHA will inform all applicants and participants of its use of EIV resources during the admission and reexamination process which may include but not limited to:

HUD's EIV system

www.theworknumber.com

CCCverify.com

Thomas & Company

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2017-12]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit

verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

BCHA Policy

Third-party documents provided by the family must be dated within sixty days of BCHA request date.

If BCHA determines that third-party documents provided by the family are not acceptable, BCHA will explain the reason to the family and request additional documentation.

As verification of earned income, BCHA will require the family to provide eight (8) weeks most current, consecutive pay stubs. For New Hires, four (4) weeks most current consecutive pay stubs.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

BCHA Policy

Third-party verification forms will be sent directly to the third-party when verification documents are unavailable or are rejected by BCHA.

Oral Third-Party Verification [Notice PIH 2017-12]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

BCHA Policy

In collecting third-party oral verification, BCHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided. Staff will print and sign the verification.

When any source responds verbally to the initial written request for verification BCHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required [Notice PIH 2017-12]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

BCHA Policy

If the family cannot provide original documents, BCHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

BCHA Policy

BCHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

Value of Assets and Asset Income [24 CFR 982.516(a)]

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

BCHA Policy

For families with net assets totaling \$5,000 or less, BCHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration will be made on the application and must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

BCHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

7-I.E. SELF-CERTIFICATION

When HUD requires third-party verification, self-certification, or "tenant declaration," is used as a last resort when the PHA is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total \$5,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable
- The PHA has adopted a policy to implement streamlined annual reexamination for fixed sources of income (See Chapter 11)

When the PHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

BCHA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to BCHA.

BCHA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to BCHA and must be signed by the family member whose information or status is being verified.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

BCHA Policy

BCHA will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicles identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
Current U.S. passport	Certified school records
Current Employer identification card	

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at BCHA’s discretion, a third party who knows the person may attest to the person’s identity. The certification must be provided in a format acceptable to BCHA and must be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where BCHA has reason to doubt the identity of a person representing themselves to be a participant.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declare to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements.

Nor may the head of the household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or, if the original document has been altered, mutilated, is illegible, or appears to be forged.

BCHA Policy

BCHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to BCHA within ninety days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

BCHA Policy

BCHA will grant one additional ninety-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided period, BCHA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

BCHA Policy

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

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

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

BCHA Policy

BCHA will grant one additional ninety-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

BCHA Policy

BCHA will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

- Make copies of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder until verified.

Once the individual's verification status is classified as "verified," the PHA should remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is an adequate documentation of an individual's SSN.

BCHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, BCHA will remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

BCHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, BCHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

BCHA Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

BCHA Policy

BCHA will require the family to document the marriage. A marriage certificate generally is required to verify that a couple is married.

Separation or Divorce

BCHA Policy

BCHA will require the family to provide documentation of the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

BCHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, BCHA may request evidence to support that the person is no longer a

member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill) BCHA will consider any of the following as verification:

1. Husband or wife institutes divorce action and provide court documents.
2. Husband or wife institutes legal separation and provide legal documents.
3. Order of protection/restraining order obtained by one family member against another.
4. Proof of another home address, such as utility bills, canceled checks for rent, driver's license, lease, or rental agreement, if available.
5. Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that address.
6. If the adult family member is incarcerated, a document from the Court or prison should be obtained stating how long they will be incarcerated.
7. If no other proof can be provided the PHA will accept a self-certification from the Head of Household, the Spouse or Co-Head, if the head is the absent member.

Absence of Head of Household

If the Head of Household is reported permanently absent by the family, the PHA will request verification as listed above prior to determining if a remaining adult member is eligible to become the new head of household. If the remaining members are minor children reference chapter 6-IB "Caretakers for a child"

Foster Children and Foster Adults

BCHA Policy

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

7-II.E. VERIFICATION OF STUDENT STATUS

General Requirements

BCHA Policy

BCHA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family reports full-time student status for an adult other than the head, spouse, or cohead.

The family reports childcare expenses to enable a family member to further their education.

The family includes a student enrolled in an *institution of higher education*.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

BCHA Policy

In accordance with the verification hierarchy described in Section 7-1.B, the PHA will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).

The student is at least 24 years old.

The student is a veteran, as defined in Section 3-II.E.

The student is married.

The student has at least one dependent child, as defined in Section 3-II.E.

The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the PHA cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from their parents (see below).

Independent Student

BCHA Policy

BCHA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0, except in cases in which the PHA determines that the student is a *vulnerable youth* (see section 3-II.E).

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at <http://www.hhs.gov/ocr/privacy>.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

BCHA Policy

For family members claiming disability who receive disability benefits from the SSA, BCHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, BCHA will request a current (dated within the last sixty days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), BCHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to BCHA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

BCHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

BCHA Policy

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

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant that determined placement on the wait list.

BCHA Policy

BCHA will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. BCHA will verify this preference using BCHA's termination records.

PHA also offers a preference for victims of domestic violence, dating violence, sexual assault, or stalking, as described in Section 4-III.C. To verify that applicants qualify for the preference, BCHA will follow documentation requirements outlined in Section 16-IX.D.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

BCHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

Wages

BCHA Policy

Third-party documents provided by the family must be dated within sixty days of BCHA request date.

If BCHA determines that third-party documents provided by the family are not acceptable, BCHA will explain the reason to the family and request additional documentation.

As verification of earned income, BCHA will require the family to provide eight (8) weeks most current, consecutive pay stubs. For New Hires, four (4) weeks most current consecutive pay stubs.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

BCHA Policy

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.

All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

BCHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination BCHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three months, BCHA will accept the family member's certified estimate of income. If the family member has been self-employed for three to twelve months BCHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

If applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), BCHA will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose children is/are being cared for, phone number, number of hours child is being cared for, method of payment, amount paid, and signature of person.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

Social Security/SSI Benefits

To ensure consistency in the determination of annual Social Security and SSI income, PHAs are required to use EIV-reported Social Security and SSI benefit amounts unless the tenant disputes the EIV-reported amount [Notice PIH 2018-24].

BCHA Policy

To verify the SS/SSI benefits of applicants, BCHA will request a current (dated within the last sixty days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), BCHA will help the applicant request a benefit verification letter from SSA's web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter, they will be required to provide it to BCHA.

To verify the SS/SSI benefits of participants, BCHA will obtain information about social security/SSI benefits through the HUD EIV System and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, BCHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) BCHA will help the participant requests a benefit verification letter from SSA's web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter, they will be required to provide it to BCHA.

7-III.D. ALIMONY OR CHILD SUPPORT

BCHA Policy

The methods BCHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be obtained in the following order of priority.

Third-party verification printout from Upfront Verification sources such as information obtainable via clerk of court office online

Copies of the receipts and/or payment stubs for the sixty days prior to BCHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

7-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

BCHA Policy

BCHA will verify the value of assets disposed of only if:

BCHA does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately 5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

BCHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, BCHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and will request documentation to support the statement including: tax statements, rent receipts, insurance invoices, property tax bill, mortgage statement, three months bills for reasonable maintenance and utilities as paid under the lease, homeowner/condo association documents (monthly statements/copy of paid receipts) and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

BCHA Policy

BCHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, BCHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than six months from the effective date of the examination.

Upon retirement, BCHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, BCHA will accept an original document from the entity holding the account dated no earlier than twelve months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PHI 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualified for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

BCHA Policy

BCHA will accept the family's self-certification of fully excluded income. BCHA may request additional documentation if necessary to document the income source.

BCHA will verify the source and amount of partially excluded income as described in Part I of this chapter.

7-III.I. ZERO ANNUAL INCOME STATUS

BCHA Policy

BCHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings, are not being received by families claiming to have zero annual income.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

BCHA Policy

For a student subject to having a portion of their student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), BCHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, BCHA will request written verification of the student's tuition amount.

If BCHA is unable to obtain third-party written verification of the requested information, BCHA will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a *vulnerable youth* in accordance with BCHA policy [24 CFR 5.612 and FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

BCHA Policy

If BCHA is required to determine the income eligibility of a student's parents, BCHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). BCHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to BCHA. The required information must be submitted (postmarked) within 10 business days of the date of BCHA's request or within any extended timeframe approved by BCHA.

BCHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

BCHA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

BCHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. BCHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming twelve months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming twelve months.

In addition, BCHA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses' deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses' deduction, the costs must not be reimbursed by another source.

BCHA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

BCHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, BCHA will verify:

The anticipated repayment schedule

The amounts paid in the past, and

Whether the amounts to be repaid have been deducted from the family's annual income in past years

7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

BCHA Policy

BCHA will accept written third-party documents provided by the family.

If family-provided documents are not available, BCHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming twelve months.

Auxiliary Apparatus

BCHA Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming twelve months.

Third-party verification form signed by the provider if family provided documents are not available.

If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming twelve months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

BCHA Policy

BCHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

BCHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

7-IV.D. CHILDCARE EXPENSES

Policies related to childcare expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 years or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

BCHA Policy

The family (and the care provider) will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

BCHA Policy

Information to be Gathered

BCHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible BCHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases BCHA will request family-provided verification from the agency of the member's job seeking efforts to date, and require the family to submit to BCHA any reports provided to the other agency.

In the event third-party verification is not available, BCHA will provide the family with a form on which the family member must record job search efforts. BCHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

BCHA will request third-party documentation to verify that the person permitted to further their education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

BCHA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

Allowable Type of Childcare

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

BCHA Policy

BCHA will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F).

BCHA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

BCHA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

BCHA Policy

The actual costs the family incurs will be compared with BCHA'S established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, BCHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS
FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]**

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
 - “Admitted as a Refugee Pursuant to Section 207”
 - “Section 208” or “Asylum”
 - “Section 243(h)” or “Deportation stayed by Attorney General”
 - “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
 - A final court decision granting asylum (but only if no appeal is taken);
 - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
 - A court decision granting withholding of deportation; or
 - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

Chapter 8

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

8-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- 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.

Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest-bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

BCHA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to BCHA for review.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA 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. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

BCHA Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Mold

When mold is present, the owner must remove and treat all affected areas. For area’s over ten square feet the owner must supply a certification of mold remediation within thirty business days.

Clarifications of HUD Requirements

BCHA Policy

As permitted by HUD, BCHA has adopted the following specific requirements that elaborate on HUD standards.

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

All windows and patio doors must have screens and must be in good condition.

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All sinks must have stoppers.

Toilets

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Bedroom Size

Bedrooms must have a floor space not less than 70 square feet. Minimum bedroom ceiling height is a minimum of 7' or local code, whichever is greater. Bedrooms that have a window air conditioner must have a second window for emergency exit capability.

Pools

All single-family homes with pools must be clean, sanitary, secured and enclosed with a safety fence minimum height of 48" and a gate latch must be equipped with self-closing latch mechanism to ensure safety. All pools must comply with local codes.

Chinese Drywall

When evidence of problem drywall is present (blackening of copper supply lines, A/C copper coils, electrical outlet wires and foul odors). Owners must have their units tested and provide BCHA with a copy of the testing report confirming the unit is problem drywall free within thirty business days. Replace all effected dry-wall, replace all fire safety alarm devices, including receptacles, switches and circuit breakers and replace all gas service piping and fire suppression sprinkler system. All test and remediation work should be conducted.

8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a)]FR Notice 01/18/17

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification. The PHA may consider a short extension of not more than 24 additional hours whenever the responsible party cannot be notified or it is impossible to complete the repairs within 24 hours

BCHA Policy

The following are considered life-threatening conditions:

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled

Any electrical problem or condition that could result in shock or fire

A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed

A light fixture is hanging by its wires

A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit

A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed

An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses

A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections

Any nicks, abrasions, or fraying of the insulation that exposes conducting wire

Exposed bare wires or electrical connections

Any condition that results in openings in electrical panels or electrical control device enclosures

Water leaking or ponding near any electrical device

Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition

Absence of a working heating system when outside temperature is below sixty degrees Fahrenheit.

Utilities not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Any components that affect the function of the fire escape are missing or damaged

Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency

The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency

Absence of a functioning toilet in the unit

Inoperable or missing smoke detectors

Missing or inoperable carbon monoxide detector

Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)

Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting

The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases

A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside

A fuel-fired space heater is not properly vented or lacks available combustion air

A non-vented space heater is present

Safety devices on a fuel-fired space heater are missing or damaged

The chimney or venting system on fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas

Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit

If an owner fails to correct life-threatening conditions as required by BCHA, BCHA will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by BCHA, BCHA will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless BCHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within twenty-four hours.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results' in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin or insect infestation). However,

if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within fifteen business days after being notified by a public health department or other medical health care provider.. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation 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 thirty business days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the “hazard reduction” as required the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401] [24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet HQS space standards is defined as *overcrowded*.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the PHA determines that a unit is *overcrowded* because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.
- *Annual/Biennial Inspections.* HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on BCHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between biennial inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

Inspection of PHA-Owned Units [24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

Inspection Costs [Notice PIH 2016-05]

The PHA may not charge the family or owner for unit inspections or reinspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for reinspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

BCHA Policy

BCHA will not charge a fee for failed reinspections.

Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

BCHA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than forty-eight hours. Inspections may be scheduled between 7:30 a.m. and 5:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, BCHA will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

BCHA Policy

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, BCHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Initial Inspections [FR Notice 1/18/17]

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

BCHA Policy

The unit must pass the HQS inspection on or before the effective date of the HAP contract. BCHA will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing a HAP contract with the owner.

Timing of Initial Inspections

HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 business days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 business days. The 15 business-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

BCHA Policy

BCHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within fifteen days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Reinspections

BCHA Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by BCHA for good cause. BCHA will reinspect the unit within five business days of the date the owner notifies BCHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any PHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, BCHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. BCHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

BCHA Policy

If utility service is not available for testing at the time of the initial inspection, BCHA will allow the utilities to be placed in service after the unit has met all other HQS requirements. BCHA will re-inspect the unit to confirm that utilities are operational before the HAP contract is executed by BCHA.

Appliances [Form HUD-52580]

BCHA Policy

If the family is responsible for supplying the stove and/or refrigerator, BCHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by BCHA. BCHA will execute the HAP contract based upon a certification from

the family that the appliances have been installed and are working. A confirmatory inspection may be scheduled within thirty business days of HAP contract approval.

8-II.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]

BCHA Policy

Each unit under HAP contract must be inspected no later than twenty-four months of the last full HQS inspection.

BCHA will not rely on alternative inspection standards.

Scheduling the Inspection

BCHA Policy

If an adult family member cannot be present on the scheduled date, the family should request that BCHA reschedule the inspection. BCHA and family will agree on a new inspection date that generally should take place within five business days of the originally-scheduled date. BCHA may schedule an inspection more than five business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, BCHA will automatically schedule a second inspection. If the family misses two scheduled inspections without BCHA approval, BCHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

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 business days of notification.

The PHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

BCHA Policy

During a special inspection, BCHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 calendar days of the date the special inspection is scheduled BCHA may elect to conduct a full annual inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); HCV GB, p. 10-32]

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

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample may include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified through The Partner Portal of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

BCHA Policy

When life-threatening conditions are identified, BCHA will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within twenty-four hours of BCHA's notice.

When failures that are not life-threatening are identified, BCHA will make available to the owner on the Partner Portal within five business days of the inspection. The notice will specify who is responsible for correcting the violation and the time frame within which the failure must be corrected. Generally, not more than thirty business days will be allowed for the correction.

The family will send written or electronic notification of repairs and time frame for completion.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within twenty-four hours, and non-life-threatening conditions are not corrected within the specified time frame (or any BCHA-approved extension), the owner's HAP will be abated in accordance with BCHA policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any BCHA-approved extension, if applicable) the family's assistance will be terminated in accordance with BCHA policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the PHA may grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

BCHA Policy

Extensions will be granted in cases where BCHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available.

A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed sixty business days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within fifteen business days, once the weather conditions have subsided.

Reinspections

BCHA Policy

BCHA will conduct a reinspection immediately following the end of the corrective period, or any BCHA approved extension. At BCHA's discretion a remote verification may be used for non-life threatening violations. These can be in the form of written verification by the owner or the family or by digital pictures.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the re-inspection, BCHA will post the violation on the Partner Portal of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with BCHA policies. If BCHA is unable to gain entry to the unit in order to conduct the scheduled re-inspection, BCHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

BCHA Policy

BCHA will make all HAP abatements effective the first of the month following the expiration of BCHA specified correction period (including any extension).

BCHA will inspect abated units within five business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

BCHA Policy

The maximum length of time that HAP may be abated is thirty days. However, if the owner completes corrections and notifies BCHA before the termination date of the HAP contract, BCHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by BCHA is thirty days.

8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

CONSEQUENCES IF FAMILY IS RESPONSIBLE (24 CFR 982.404 B NCE)

If non-emergency violations of HQS are determined to be the responsibility of the family, the PHA will require the family to make any repairs or corrections within 30 days. If the repairs or corrections are not made in this time period, the PHA will terminate assistance to the family. Extensions in these cases must be approved by the Supervisor of Inspections or other assigned personnel. The owner's rent will not be abated for items which are the family's responsibility.

If emergency violations of HQS are determined to be the responsibility of the family, the Housing Authority will require the family to make corrections within 24 hours.

If the tenant is responsible and corrections are not made, the PHA will terminate the family's assistance according to the PHA policies.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

PHA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. e PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

BCHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, BCHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than four units. In evaluating the proposed rents in comparison to other units on the premises BCHA will consider unit size and length of tenancy in the other units.

BCHA will determine whether the requested increase is reasonable within ten business days of receiving the request from the owner.

All rents adjustments will be effective the first of the month following sixty days after BCHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

BCHA Policy

In addition to the instances described above, BCHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) BCHA determines that the initial rent reasonableness determination was in error or (2) BCHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)

- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

Units that Must Not Be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Note: Notice PIH 2011-46, issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

8-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

BCHA Policy

BCHA will collect and maintain data on market rents in BCHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than twelve months old will be eliminated from the database.

How Rents Are Determined

BCHA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. BCHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be

similar, but not exactly like the unit proposed for HCV assistance, BCHA may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference—not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \488 .

BCHA will notify the owner of the rent BCHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. BCHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within five business days of BCHA's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. □ The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero-bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities within 30 days when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.
- Maintain covered housing without deteriorated paint if there is child under six in the family

For units occupied by blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA). If lead hazards are identified during environmental investigation, the owner must complete hazard reduction activities within 30 days.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

Chapter 9

GENERAL LEASING POLICIES

INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

9-I.A. TENANT SCREENING

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the PHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager of their rights and obligations under the Violence against Women Act of 2013 (VAWA) [24 CFR 5.2005(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in the PHA records) and the name and address (if known to the PHA) of the landlord at the family's current and prior address [24 CFR 982.307(b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the family's tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The PHA may not disclose to the owner any confidential information provided by the family in response to a PHA request for documentation of domestic violence, sexual assault, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

BCHA Policy

BCHA will not screen applicants for family behavior or suitability for tenancy.

BCHA will provide, upon request, contact information for the last landlord of record and will not provide any further additional screening information to the owner.

9-I.B. REQUESTING TENANCY APPROVAL [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 family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517

- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

BCHA Policy

The RTA must be signed by both the family and the owner. The owner may submit the RTA on behalf of the family.

Completed RTA packet (including the proposed dwelling lease, landlord payment/direct deposit form, lead based paint disclosure (if applicable), initial rent survey form, and documents listed on the Move Packet Checklist) must be submitted as hard copies, in-person, by mail, e-mail or by fax.

The family may not submit, and BCHA will not process, more than one (1) RTA at a time.

When the family submits the RTA BCHA will review the RTA for completeness.

If the RTA packet is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA or does not comply with HUD and BCHA requirements, BCHA will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, e-mail, by mail, or by fax. BCHA will not accept missing information over the phone.

When the family submits the RTA and proposed lease, BCHA will also review the terms of the RTA for consistency with the terms of the proposed lease.

If the terms of the RTA are not consistent with the terms of the proposed lease, BCHA will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by email, by mail or by fax. Only specific items may be corrected on the RTA by phone: Year Built and utility responsibility (providing they match the lease) Staff will notate the date, time, person spoken to and the staff will initial the correction. No other changes to the RTA may be made by staff. At no time will BCHA will not accept corrections to the lease by phone.

Because of the time sensitive nature of the tenancy approval process, BCHA will attempt to communicate with the owner and family by phone, fax, or email. BCHA will use mail when the parties cannot be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving 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.

PHA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

BCHA Policy

BCHA does have eligible BCHA-owned units available for leasing under the voucher program.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract

prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

BCHA Policy

BCHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities (electric, water, sewer, trash, natural gas) and appliances (specifically the range, refrigerator, and air conditioner) are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

BCHA Policy

BCHA will approve an initial lease term of less than one year providing that such term is within normal business practice for the rental (example: Tax Credit Properties).

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

The PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

BCHA Policy

BCHA will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

BCHA Policy

BCHA 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 if the agreement is in writing and approved by BCHA in advance.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

BCHA is not liable for unpaid charges for items covered by separate agreements.

PHA Review of Lease

The PHA will review the dwelling lease for compliance with all applicable requirements.

BCHA Policy

If the dwelling lease is incomplete or incorrect, BCHA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by email, by mail, or by fax. BCHA will not accept missing and corrected information over the phone

Because the initial leasing process is time-sensitive, BCHA will attempt to communicate with the owner and family by phone, fax, or email. BCHA will use mail when the parties can't be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

BCHA Policy

BCHA will not review the owner's lease for compliance with state/local law.

9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

BCHA Policy

BCHA will complete its determination within ten business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with BCHA. BCHA will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by email, by mail, or by fax. BCHA will not accept corrections over the phone.

If BCHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified by phone and given the opportunity to address any reasons for disapproval. BCHA will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy. The owner will have ten business days to submit an approvable RTA from the date of disapproval.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability or rent reasonableness, BCHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP contract, the PHA 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 HAP contract form is prescribed by HUD.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner.

BCHA Policy

Owners who have not previously participated in the HCV program will be invited to attend a meeting with BCHA in which the terms of the Tenancy Addendum and the HAP contract will be explained.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to BCHA. The owner and BCHA will execute the HAP contract. BCHA will ensure that the owner receives a copy of the executed HAP contract.

The following BCHA representatives are authorized to execute the Housing Assistance Payment Contract on behalf of BCHA: Chief Executive Officer, Chief Operating Officer, Program Directors, Supervisors, Occupancy Specialist and Intake Specialists.

Owners must provide the current address of their residence (not a Post Office Box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit address. Rent payments will not be sent to the subsidized unit.

Owners must provide an Employer Identification Number or Social Security Number. The owner must supply a business or home telephone number.

As required under VAWA 2013, once the HAP contract and lease have been executed and the family has been admitted to the program, the PHA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

BCHA Policy

Where the owner is requesting a rent increase, BCHA will determine whether the requested increase is reasonable within thirty business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases will go into effect on the first of the month following the sixty-business day period after the owner notifies BCHA of the rent change or on the date specified by the owner, whichever is later.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

BCHA Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, BCHA must receive a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- 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 [24 CFR 982.314(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that 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), 24 CFR 982.353(b)]. The PHA must adopt an emergency transfer plan as required by regulations at 24 CFR 5.2007(e).

BCHA Policy

If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by BCHA based on a claim that the move is necessary 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, BCHA will request that the resident request the emergency transfer using form HUD-5383, and BCHA will request documentation in accordance with section 16-IX.D of this plan.

BCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases BCHA will document the waiver in the family's file.

BCHA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

Before granting an emergency transfer, BCHA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

BCHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan and discusses external transfers to other covered housing programs.

- The PHA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)]. However, Notice 2016-09 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

BCHA Policy

BCHA will deny a family permission to move on grounds that BCHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or BCHA; (b) BCHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) BCHA can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving PHA is not absorbing the voucher.

If BCHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit

if the move is within BCHA's jurisdiction. BCHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both moves within BCHA's jurisdiction and outside under portability, BCHA will not deny a move due to insufficient funding if the PHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. BCHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

BCHA will create a list of families whose moves have been denied due to insufficient funding. BCHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. BCHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).

BCHA 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.

Grounds for Denial or Termination of Assistance

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)].

BCHA Policy

If BCHA has grounds for denying or terminating a family's assistance, BCHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when 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. (For the policy on documentation of abuse, see section 10-I.A.) In addition, the PHA may not establish a policy permitting moves only at reexamination [notice PIH 2016-09].

- The PHA can deny permission to move if:
 - The family has violated a Family Obligation.
 - The family owes the PHA money.
 - The family has moved or been issued a Voucher within the last twelve months.

- The Program Administrator may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

BCHA Policy

BCHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within BCHA's jurisdiction or outside it under portability.

BCHA will also deny a family permission to make more than one elective move during any twelve-month period. This policy applies to all assisted families residing in BCHA's jurisdiction.

BCHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, BCHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

10-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2)]. The notices must be in writing [24 CFR 982.5].

Approval

BCHA Policy

Upon receipt of a family's notification that it wishes to move, BCHA will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. BCHA will schedule an appointment to conduct the reexamination within ten business days following receipt of the family's notification.

Reexamination of Family Income and Composition

BCHA Policy

For families approved to move to a new unit within the PHA's jurisdiction, the PHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

When families move to another dwelling unit the anniversary date for the Reexamination may change.

If the family moves to another unit within the same building or complex, even if it is with the same owner, it will be treated like any other move and the reexamination date may change.

For families moving into or families approved to move out of BCHA's jurisdiction under portability, BCHA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

BCHA Policy

For families approved to move to a new unit within BCHA's jurisdiction, BCHA will issue a new voucher once all required verifications have been supplied in accordance with the reexamination requirements. No briefing is required for these families. BCHA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and BCHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of BCHA's jurisdiction under portability, BCHA will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

PART II: PORTABILITY

10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issued the voucher is called the **initial PHA**. The second PHA that has jurisdiction in the area to which the family wants to move is called the **receiving PHA**.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA by email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

PHAs commonly act as both initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

Participants in certain specialty programs are not permitted to use Portability. (See chapters relating to special programs for Portability determination)

10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and BCHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

BCHA Policy

In determining whether or not to deny an applicant family permission to move under portability, because BCHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10 I.B of this chapter. In addition, BCHA may establish a policy denying the right to portability to nonresident applicants during the first twelve months after they are admitted to the program [24 CFR 982.353(c)].

BCHA Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in BCHA's jurisdiction at that the time the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least twelve months before requesting portability.

BCHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, or stalking. However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353(c)(3)].

Participant Families

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, or sexual assault, 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 982.353(b)].

BCHA Policy

BCHA will determine whether a participant family may move out of BCHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and

in sections 10-I.A and 10-I.B of this chapter. BCHA will notify the family of its determination in accordance with the approval policy set forth in this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1), 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-09].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

BCHA Policy

For a participant family approved to move out of its jurisdiction under portability, BCHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

BCHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

BCHA Policy

No formal briefing will be required for a participant family wishing to move outside BCHA's jurisdiction under portability. However, BCHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

BCHA will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction

over the area to which the family wishes to move, BCHA will advise the family that the family selects the receiving PHA and notify the initial PHA of which receiving PHA was selected. BCHA will provide the family with contact information for all of the receiving PHAs that serve the area. BCHA will not provide any additional information about receiving PHAs in the area. BCHA will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, BCHA will not provide the family with information for all receiving PHAs in the area.

BCHA will advise the family that they will be under the RHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5.

BCHA Policy

A voucher will not, however, be issued more than sixty days prior to the expiration of the lease or agreed upon/noticed early termination of lease.

The initial term of the voucher will be sixty days.

Voucher Extensions and Expiration

BCHA Policy

BCHA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of BCHA's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another BCHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within ninety days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving

PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [24CFR 982.35(c) (3)].

BCHA Policy

BCHA will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

Initial Notification to the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

BCHA Policy

Because the portability process is time-sensitive, BCHA will notify the receiving PHA by phone, fax, or e-mail to expect the family. BCHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. BCHA will pass this information along to the family. BCHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-09]
- A copy of the family's voucher [Notice PIH 2016-09]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2016-09]

BCHA Policy

In addition to these documents, BCHA will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system

Documentation of legal identity

Documentation of citizenship or eligible immigration status

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a Family Self-Sufficiency (FSS) program

BCHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2016-09]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. The deadline is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the initial PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

If the initial PHA will honor the late billing, no action is required.

BCHA Policy

If BCHA has not received an initial billing notice from the receiving PHA within the billing deadline, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family.

BCHA will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA 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 [24 CFR 982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665

from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

BCHA Policy

BCHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies BCHA that direct deposit is not acceptable to them. BCHA extends the term of the voucher, the receiving PHA's voucher will expire thirty calendar days from the new expiration date of the initial PHA's voucher.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

Subsequent Family Moves

The initial PHA has the authority to deny subsequent moves to portable families whom it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance (p. 13-8).

- If the PHA determines that it must deny on the grounds that it lacks sufficient funding, it will notify all receiving PHAs with which it has entered into portability billing arrangements that they too must deny moves to higher cost units by portable families from the PHA's jurisdiction.
- The PHA will allow exceptions to this policy for purposes of reasonable accommodation of a family member who is a person with disabilities. (p. 13-9).

Outside the Receiving PHA's Jurisdiction [Notice PIH 2004-12]

If the initial PHA is assisting a portable family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, the initial PHA is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of the initial PHA voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA. (p. 13-9)

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial PHA's Request

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. 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 (24 CFR 982.355(c)(4)).

BCHA Policy

BCHA will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2004-12]. (See later under "Absorbing a Portable Family" for more on this topic.)

- After a portable family requests assistance; the receiving PHA will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program. P. 13-9

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-09]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2016-09].

BCHA Policy

BCHA will require the family to attend a briefing. BCHA will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about BCHA'S payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)]. If the receiving PHA

opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

BCHA Policy

For any family moving into its jurisdiction under portability, BCHA will conduct a new reexamination of family income and composition. However, BCHA will not delay issuing the family a voucher for this reason. Nor will BCHA delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and BCHA 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, BCHA will rely upon any verification provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last hundred-twenty days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2016-09].

BCHA Policy

When a family ports into its jurisdiction; BCHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with BCHA's procedures. BCHA will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration the term of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

BCHA Policy

BCHA's voucher will expire thirty calendar days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, BCHA's voucher will expire thirty calendar days from the new expiration date of the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2016-09]

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

BCHA Policy

BCHA generally will not extend the term of the voucher that it issues to an incoming portable family unless BCHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

BCHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities. (See Chapter 2)

Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. 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 [24 CFR 982.4(b)] (see Section 5-II.E).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2016-09].

Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)]

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 may 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).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

BCHA Policy

Unless BCHA negotiates a different amount of reimbursement with the initial PHA, BCHA will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) 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 [Notice PIH 2016-09]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

BCHA Policy

BCHA will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over-leased) [Notice PIH 2016-09].

Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]

Annual Reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

BCHA Policy

BCHA will send a copy of the updated HUD-50058 no later than ten business days after the effective date of the reexamination.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to 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.

Late Payments [Notice PIH 2016-09]

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 must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 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.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2016-09.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement [Notice PIH 2016-09].

BCHA Policy

If BCHA elects to deny or terminate assistance for a portable family, BCHA will notify the initial PHA within ten business days after the informal review or hearing if the denial or termination is upheld. BCHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. BCHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that the PHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2016-09].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, 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. [Notice PIH 2016-09].

BCHA Policy

If BCHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, BCHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If BCHA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice, but no later than ten business days following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability [24 CFR 982.355(e)(4)].

Chapter 11

REEXAMINATIONS

INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

The PHA 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.

11-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b)]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income and may choose whether to verify non-fixed income amounts in years where no fixed-income review is required. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

BCHA Policy

BCHA has not opted to utilize Streamlining for fixed sources of income.

11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period, and may require reexaminations more frequently [HCV GB p. 12-1].

BCHA Policy

BCHA will begin the annual reexamination process one hundred-twenty days in advance of its scheduled effective date. Generally, BCHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as twelve months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (new admission).

If the family is moving to a new unit, BCHA will perform a new annual reexamination.

BCHA may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 (Optional and Supplemental Contact Information for HUD-Assisted Housing Applicants) at this time [Notice PIH 2009-36].

BCHA Policy

Reexaminations may be conducted by phone, in-person, online, virtual, or by mail, which must be attended by the head of household, spouse, or co-head and adult members. Full-time students who are attending school outside of the Broward, Miami-Dade, Palm Beach area, will be excused from attending the appointment providing documentation of Full-time status is provided by the family, however, the student will be required to complete and sign appropriate documentation. If participation in an interview method poses a hardship because of a family member's disability, the family should contact BCHA to request a reasonable accommodation (see Chapter 2). Notification of annual reexamination interviews will be sent by first-class mail or email and will contain pertinent information and documentation necessary for the interview.

Rescheduling Interview

Online reexamination may request an extension when necessary.

In-person, phone, or virtual interviews where the family is unable to attend, the family should contact BCHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, BCHA will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without BCHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see

Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

Exception to these policies may be made by management/administration if the family is able to document an emergency situation that prevented them from canceling or attending the appointment and if requested as a reasonable accommodation for a person with disability.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and BCHA must execute a certification attesting to the role and the assistance provided by any such third party.

II-I.D. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

BCHA Policy

Families will be asked to provide all required information (as described in the reexamination notice) for the reexamination appointment. The required information will include a BCHA designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, Organizational Requesting Release of Information form, as well as supporting documents or forms related to the family's income, expenses, and family composition, and any other necessary documentation requested.

Verifications for reexaminations must be dated within sixty days of the date BCHA requested the documentation.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within ten days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

BCHA Policy

At the annual reexamination, BCHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. BCHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

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

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from his or her parents or is considered a *vulnerable youth* in accordance with BCHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

BCHA Policy

During the annual reexamination process, BCHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the

student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents or is considered a *vulnerable youth* based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the PHA will process a reexamination in accordance with the policies in this chapter.

11-I.F. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

BCHA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least thirty days in advance.

If less than thirty days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the thirty-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no thirty-day notice is required.

If BCHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by BCHA, but will always allow for the thirty-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If BCHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by BCHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by BCHA by the date specified, and this delay prevents BCHA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-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 PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The family is required to report all changes in family composition. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

BCHA Policy

BCHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring PHA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

BCHA Policy

The family must inform BCHA of the birth, adoption, or court-awarded custody of a child within thirty days.

Minors

- a) BCHA will require birth certificate and Social Security Numbers for minors. Failure to provide social security number within 90 days will result in termination of assistance for failure to comply with program requirements.
- b) For a parent or another person having custody or guardianship of such individual or individuals BCHA will require one of the following documents:
 - (1) Court-order assignment; or
 - (2) Statement from parent/guardian assigning custody or guardianship; or
 - (3) Custody Agreement filed in a court of law; or
 - (4) Adoption papers; or
 - (5) Verification from social service agency
- c) Adding family members resulting from birth, court awarded custody or adoption shall not require Agency approval. The family must notify BCHA within thirty days of the addition.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or another household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the PHA must make appropriate adjustments in the family share of the rent and the HAP payment at the effective date of either the annual or interim reexamination [24 CFR 982.516(e)(2)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

BCHA Policy

Requirements to Add Family or Household Members

General

- a) All family or household additions other than those listed in 2.c) above, “New Family Members Not Requiring PHA Approval” must be approved by BCHA. This includes family members, live-in aides and foster children.
- b) If the addition of a foster adult or child will result in an HQS violation, the request to add them will be denied.
- c) The family will be issued a voucher and required to move to an appropriately sized unit if the addition of a family member or a live-in aide will result in an HQS violation. Families must request BCHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than thirty consecutive days or ninety cumulative days within a twelve-month period and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by BCHA prior to the individual moving into the unit.

BCHA will not approve additions of a family to the existing household, except for the purpose of reasonable accommodation for member(s) of the currently subsidized family.

BCHA will not approve the addition of a new household member unless the individual meets BCHA’s eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

BCHA will not approve the addition of former adult household members that were deemed permanently absent except for purpose of reasonable accommodation for a member(s) of the currently subsidized family.

If BCHA determines that an individual does not meet BCHA’s eligibility criteria or documentation requirements, BCHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

BCHA will make its determination after receiving all information required to verify the individual’s eligibility.

Persons 18 years of age or older:

When the participant requests an adult person (defined as someone 18 years of age or older) be added to the family composition, the following will be required:

- a) Social security number, verification of income, and all other eligibility related requirements; the individual will be required to sign HUD form 9886 (Release of Information);
- b) The adult is subject to the same screening and eligibility requirements as the assisted family.

BCHA will notify the family in writing if there is a determination to deny the addition of any family member(s). The family may appeal by requesting an Informal Hearing as outlined in this Plan.

Departure of a Family or Household Member

Families must promptly notify the PHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

BCHA Policy

If a household member ceases to reside in the unit, the family must inform BCHA within thirty business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform BCHA within thirty business days.

Misrepresentation of family circumstances

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may terminate assistance and may refer the family file/records to the proper authority' disposition.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

BCHA Policy

BCHA will conduct interim reexaminations in each of the following instances of family income, composition and other eligibility factors to adjust the Total Tenant Payment (TTP) for the following reasons:

For families whose income cannot be projected with any reasonable degree of accuracy, special reexaminations will be scheduled not more than every thirty business days;

For families where an error was made at admissions or reexamination; that family will not be charged retroactive rent (increase) for error(s) made BCHA personnel;
For families whose rent was based on false or incomplete information supplied by the applicant/participant;

For families who requested a review due to a decrease in income or increase in allowable expenses;

For families who have had their rent reduced under a previously requested reexamination;

For families who have added and/or deleted member(s) of their household from the original family composition; (mandatory that this be reported to BCHA);

For families whose income source is changed including changing from one full time employer to another, receipt of an unscheduled increase in wages, or receipt of an increase in benefits such as Social Security, SSI, and TANF.

For families or household members previously reporting zero income, a review of EIV and IVT will be scheduled every three months. For families housed under Shelter plus Care (SPC) Program that report zero income, BCHA will conduct an interim reexamination twice (2X) per year as long as the family continues to report they have no income; and Any requirements imposed by HUD.

Income changes resulting from welfare program requirements

The Quality Housing and Work Responsibilities Act (QHWRA) establishes new requirements for the treatment of income changes resulting from welfare program requirements. These requirements are effective immediately. However, before implementation of the new requirements, the PHA must revise operating procedure to effectuate these provisions.

The PHA will not reduce the family share of rent for families whose welfare assistance is reduced due to a specified welfare benefit reduction”, which is a reduction benefits by the welfare agency specifically because of:

Fraud in connection with the welfare program; or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program.

However, the PHA will reduce the rent if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits; or

A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or

A situation where a family member has not complied with other welfare agency requirements.

Family-Initiated Interim Reexaminations

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

Required Reporting

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

BCHA Policy

BCHA will conduct interim reexaminations of family income, composition and other eligibility factors to adjust the Total Tenant Payment (TTP) for the following reasons:

- a) For families whose income cannot be projected with any reasonable degree of accuracy, special reexaminations will be scheduled not more than every thirty business days;
- b) For families where an error was made at admissions or reexamination; that family will not be charged retroactive rent (increase) for error(s) made BCHA personnel;
- c) For families whose rent was based on false or incomplete information supplied by the applicant/participant;
- d) For families who requested a review due to a decrease in income or increase in allowable expenses;
- e) For families who have had their rent reduced under a previously requested reexamination;
- f) For families who have added and/or deleted member(s) of their household from the original family composition; (mandatory that this be reported to BCHA);
- g) For families whose income source is changed including changing from one full time employer to another, receipt of an unscheduled increase in wages, or receipt of an increase in benefits such as Social Security, SSI, and TANF.
- h) For families or household members previously reporting zero income, a review of EIV and IVT will be scheduled every three months. For families housed under Shelter plus Care (SPC) Program that report zero income, BCHA will conduct an interim reexamination twice (2X) per year as long as the family continues to report they have no income; and
- i) Any requirements imposed by HUD.

The family may report decreases in income and request an interim reexamination to adjust the rent.

Increases in income must be reported to BCHA in writing within thirty business days of the effective date of the increase.

BCHA will determine whether or not the increase warrants an interim reexamination.

Zero Income families must report increases within thirty business days of the date the change takes effect.

Family Self Sufficiency (FSS) participants must report increases in earned income within thirty business days of the date the change takes effect.

BCHA will conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and when the EID family's share of rent will change as a result of the increase.

Failure to Respond to Annual or Interim Reexamination Notice

1. The written notification must state which family members are required to attend the interview. The family may call to request another appointment date up to one day prior to the interview.
2. If the family does not appear for the reexamination interview, and has not rescheduled or made prior arrangements with BCHA, BCHA will reschedule a second appointment.
3. If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, BCHA will send the family notice of termination and offer them an informal hearing.
4. Exceptions to these policies may be made if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.
5. Extenuating circumstances may be considered at the discretion of BCHA. The second appointment notice must be mailed immediately (within one business day of the first appointment), allowing the participant ten business days for the next scheduled appointment.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

BCHA Policy

If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, BCHA will conduct an interim reexamination. See Section 11-II.D. for effective dates.

Families may report changes in income or expenses at any time.

Timely reporting of changes (24 CFR 982.516(c))

At any time, the PHA may conduct an interim reexamination of family income and composition.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

BCHA Policy

The family may notify BCHA of changes either orally or in writing. If the family provides oral notice, BCHA will also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if BCHA determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, BCHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within thirty business days of receiving a request from BCHA. This time frame may be extended for good cause with BCHA approval. BCHA will accept required documentation by mail, by fax, by e-mail or in person.

Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

BCHA Policy

Changes to Tenant Rent

1. When the family income information is analyzed, and all other reexamination requirements have been met, the Tenant Rent will be recalculated.
2. BCHA will notify both the owner/landlord and participant in writing of the new rent shares.
3. Changes in Family Share at Annual Reexamination

Increases or decreases in family share are effective on the anniversary date unless the family has caused a delay in the reexamination process or fails to report all income and deductions.

When the family causes a delay or fails to report, a decrease in family share will become effective the first day of the month following verification. An increase is effective retroactively to earlier of the anniversary date or the first day of the month following the increase.

4. Changes in Family Share at Interim Reexamination

An increase in family share is effective the first day of the month following a thirty business-day notice from BCHA if reported by the family within thirty business days of the increase. If the family has not reported the increase within thirty business days, the increase will be retroactive to the first day of the month following the increase in income. Decreases in family share are effective the first day of the month following verification of the reported amount of decreased income or increased deductions.

5. Increases in family share as a result of receipt of the Earned Income Disallowance (EID) will be effective the first day of the month following notification by BCHA.
6. If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the anniversary date or at the discretion of BCHA, the participant may be placed on a promissory note or terminated from the program.
7. If there is a rent decrease, it will be effective on the first day of the month following reexamination date (unless the family has caused a delay in reexamination processing).
8. Retroactive rent is charged when the participant has failed to provide information within the required time period.

9. Rent will be prorated when a mixed family is not eligible for continued assistance or deferral of termination; chooses not to defer termination; or is at the end of the deferral period. The total housing subsidy is calculated in the usual manner for either assistance programs, using income for all family members. Prorated assistance is calculated by multiplying the total subsidy by a fraction that shows the number of eligible family members as the top number and is divided by the number of total family members as the bottom number.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p.12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
 - If the payment standard amount has *increased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
- If the payment standard amount has *decreased*, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard

BCHA Policy.

- If the amount on the payment standard schedule is decreased during the term of the HAP contract, the initial reduction in the payment standard amount used to calculate the family's HAP will be applied at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard.

- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB P 18-824].

BCHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to action or inaction of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take, and the steps the PHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the PHA to terminate assistance for certain action 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 inaction 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.

Denial of assistance for an applicant may include any or all of the following:

Denial for placement on the PHA waiting list

Denying or withdrawing a certificate or voucher

Refusing to enter into a PHA contract or approve a lease

Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

Refusing to enter into a HAP contract or approve a lease

Terminating housing assistance payments under an outstanding HAP contract

Refusing to process or provide assistance under portability procedures

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [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.

BCHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify BCHA of the change and request an interim reexamination before the expiration of the one hundred-eight-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

BCHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, and spouse, or co-head if applicable. Before terminating the family's assistance, BCHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

BCHA Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases BCHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision, BCHA will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such factors, BCHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2012-10]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

BCHA Policy

BCHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of ninety business days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should a PHA 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 PHA must immediately terminate assistance for the household member.

In this situation, 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.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, 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 PHA must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

The PHA must immediately terminate program assistance for deceased single member households.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Screening and Termination for Drug Abuse and Other Criminal Activity Purpose

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the Broward County Housing Authority to fully endorse and implement a policy designed to:

Help create and maintain a safe and drug-free community

Keep our program participants free from threats to their personal family safety

Support parental efforts to instill values of personal responsibility and hard work

Help maintain an environment where children can live safely, live and grow up to be productive citizens. Assist families in their vocational/educational goals in the pursuit of self sufficiency

Administration

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups.

Screening of Applicants, Participants and Additions to Households of existing participants

In an effort to prevent drug related and other criminal activity, as well as other pattern of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises for other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, BCHA will endeavor to screen applicants and participants as thoroughly and fairly as possible for drug-related and violent criminal behavior.

Such screening will apply to any member of the household who is 18 years of age or older, in addition to new family members added to household 18 years of age or older. This also applies to current family members who have become 18 years of age.

HUD DEFINITIONS

Covered person, for purposes of 24 CFR Part 982 and this chapter, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

Drugs means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug –related criminal activity means 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.

Guest, for purposes of this chapter and 24 CFR part 5, subpart A and 4 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has expressed or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

Household, for the purposes of 24 CFR Part 982 and this chapter, means the family and PHA approved Live-in Aide.

Other person under the tenant's control, for the purposes of the definition of covered person and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in this unit, is or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has expressed or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

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 like to cause, serious bodily injury or property damage.

Standard for Violation

The PHA will deny participation in the program to applicants and terminate assistance to participants in cases where the PHA determined there is reasonable cause to believe that a household member is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the PHA determines that there is a pattern of illegal use of drugs or violent criminal activity.

“Engaged in or engaging in” violent criminal activity means any activity within the past 5 years by an applicant or participant or household member which involved 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 reasonable likely to cause, serious bodily injury or property damage, which [did or did not result in] the arrest and/or conviction of the applicant, participant, or household member.

The activity is being engaged in by any family member.

The existence of the above-referenced behavior by any household member, regardless of the applicant or participant’s knowledge of the behavior, shall be grounds for denial or termination of assistance.

In evaluating evidence of negative past behavior, the PHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

Use of Illegal Drugs and Alcohol Abuse

BCHA Policy

BCHA will terminate a family’s assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

BCHA will terminate assistance if any household member’s abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

BCHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, BCHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E.

Upon consideration of such alternatives and factors, BCHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

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

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

BCHA Policy

BCHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

BCHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, BCHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, BCHA may, on a case-by-case basis, choose not to terminate assistance.

Lifetime Register Sex Offenders [Notice PIH 2012-28]

Should a PHA 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 PHA must immediately terminate assistance for the household member.

In this situation, 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.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c)]

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the

termination of assistance. As discussed further in section 12-II.E, the Violence against Women Act of 2013 explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault or stalking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per the alternative requirements listed in the *Federal Register* notice dated December 29, 2014, PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation [FR Notice 12/29/14].

BCHA **will** terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related BCHA policies.

Any family member has been evicted from federally-assisted housing in the last five years.

Any PHA has ever terminated assistance under the program for any member of the family.

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

The family currently owes rent or other amounts to any BCHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs. Under the 1937 Act.

The family has not reimbursed any BCHA for amounts BCHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with BCHA.

A family member has engaged in or threatened violent or abusive behavior toward BCHA personnel.

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

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

In making its decision to terminate assistance, BCHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, BCHA may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

BCHA Policy

If the family is absent from the unit for more than one hundred-eighty consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

Insufficient Funding [24 CFR 982.454]

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

BCHA Policy

BCHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If BCHA determines there is a shortage of funding, prior to terminating any HAP contracts, BCHA will determine if any other actions can be taken to reduce program costs.

In the event that BCHA decides to stop issuing vouchers as a result of funding shortfall, and BCHA is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and Family Unification Program (FUP) families), when BCHA resumes issuing vouchers, BCHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the number of special purpose voucher, when applicable.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, BCHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, BCHA will inform the local HUD field office. BCHA will terminate the minimum number needed in order to reduce HAP costs to a level within BCHA's annual budget authority.

If BCHA must terminate HAP contracts due to insufficient funding, BCHA will do so in accordance with the following criteria and instructions:

Families comprising the required number of special purpose voucher, including nonelderly disable (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and Family Unification Program (FUP) will be the last to be terminate.

BCHA Policy

BCHA may terminate the HAP contract if BCHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The PHA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the PHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter into a new HAP contract, or approved a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

BCHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon BCHA request.

Repayment of Family Debts

BCHA Policy

If a family owes amounts to BCHA, as a condition of continued assistance, BCHA will require the family to repay the full amount or to enter into a repayment agreement, within thirty business days of receiving notice from BCHA of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

BCHA Policy

BCHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

BCHA Policy

BCHA will consider the following fact and circumstances when making its decision to terminate assistance.

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.

While a record of arrest(s) will not be used as the basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, BCHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. BCHA may also consider:

Any statements made by witnesses or the participant not included in the police report

Whether criminal charges were filed

Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

BCHA will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

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

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

BCHA Policy

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

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault 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 to the limitations discussed under the next heading.)

First, VAWA provides that a PHA 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 PHA, 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, sexual assault 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 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault 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)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault 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 affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking if the PHA 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)(2)].

HUD regulations 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 [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim’s assistance “only when there are no other actions that could be taken to reduce or eliminate the threat” [24 CFR 5.2005(d)(3)].

BCHA Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, BCHA 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, sexual assault or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

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 BCHA’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.

Documentation of Abuse [24 CFR 5.2007]

BCHA Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault or stalking claims protection under VAWA, BCHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

BCHA 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 BCHA will document the waiver in the individual’s file.

BCHA will refer victims of domestic violence to Women in Distress.

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 PHA the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others” without terminating assistance to “or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant” [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 PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

The documentation must include two elements:

A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking; and

One of the following:

A police or court record documenting the actual or threatened abuse; or

A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

The required certification and supporting documentation must be submitted to the PHA within 14 business days after the PHA issues their written request. The 14-day deadline may be extended at the PHA’s discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, the PHA may proceed with assistance termination.

If the PHA can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's tenancy is not terminated, the PHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271].

BCHA Policy

When the actions of a participant or other family member result in a BCHA decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, BCHA will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any approved extension period, BCHA will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, BCHA will proceed with termination of the family's assistance.

If BCHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the participant's tenancy is not terminated, BCHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

PHA Confidentiality Requirements

All information provided to the PHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

BCHA Policy

BCHA will terminate assistance to a family member if BCHA 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, nonculpable family members.

In making its decision, BCHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to BCHA by the victim in accordance with this section and section 16-IX.D. BCHA will also consider the factors in section 12-II.D. Upon such consideration, BCHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If BCHA 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.

12-II.F. TERMINATION NOTICE

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

BCHA Policy

Whenever a family's assistance will be terminated, BCHA will send a written notice of termination to the family and to the owner. BCHA will also send a form HUD 5382 and form HUD-5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least thirty business days following the date of the termination notice, but exceptions will be made whenever HUD rules, other BCHA policies, or the circumstances surrounding the termination require.

When BCHA notifies an owner that a family's assistance will be terminated, BCHA will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. VAWA 2013 expands notification requirements to require PHAs to provide notice of VAWA rights and HUD 5382 form when a PHA terminates a household's housing benefits.

BCHA Policy

Whenever BCHA decides to terminate a family's assistance because of the family's action or failure to act, BCHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD -5382 and form HUD-5380. BCHA will request that a family member wishing to claim protection under VAWA notify BCHA within fourteen business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].
- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

Notice of Termination of Assistance

In any case where BCHA decides to terminate assistance to the family, BCHA must give the family written notice which states:

The reasons(s) for the proposed termination.

The effective date of the proposed termination.

The family's right, if they disagree, to request an-*Informal Hearing* to be held before termination of assistance.

The date by which a request for an informal hearing must be received by BCHA.

If BCHA proposes to terminate assistance for criminal activity as shown by a criminal record, BCHA will provide the subject of the record and the tenant with a copy of the criminal record.

BCHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

Required Evidence

Preponderance of evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

BCHA will pursue fact-finding efforts as needed to obtain credible evidence.

BCHA may terminate assistance for criminal activity by a household member under this section if BCHA has determined that the household member has engaged in the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

Confidentiality of Criminal Records

The PHA will ensure that any criminal record received is maintained confidentially, not misused

or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed, will be housed in a locked file with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance [and to upper level Section 8 management].

Misuse of the above information by any employee will be grounds for termination of employment.

If the family is determined eligible for initial or continued assistance, the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

Housing Authority Discretion [24 CFR 982.552 (c)]

In deciding whether to deny or terminate assistance because of action or failure to act by a member of the family, BCHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. BCHA will use its discretion in reviewing the extent of participation or culpability of individual family member and the length of time since the violation occurred. BCHA may also review the family's more recent history and record compliance, and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

BCHA may impose, as a condition of continued assistance to other family members, who participated in, or were culpable for the action or failure to act, will not reside in the unit. BCHA may permit the other members of a family to continue in program.

Enforcing Family Obligations

Explanations and Terms

The term "promptly" when used with the family obligations always means "within ten business days". Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

Lease Violations

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violation of lease.

If the owner notifies that family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and BCHA determines that the cause is a serious or repeated violation of the lease based on available evidence.

If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and

If there are police reports, neighborhood complaints or other third-party information, that has been verified by BCHA.

Nonpayment of rent is considered a serious violation of the lease.

Notification of Eviction

If the family requests assistance to move and they did not notify BCHA of an eviction within five business days of receiving the Notice of Lease Termination, the move will be denied.

Proposed Additions to the Family

BCHA will deny a family's request to add additional family member who are:

Persons who have been evicted from public housing.

Persons who have previously violated obligation listed in 24 CFR 982.51 of the HUD regulations.

Persons who commit drug-related criminal activity or violent activity.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

Persons who currently owe rent or other amounts to BCHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Persons who have engaged in or threatened abusive or violent behavior toward BCHA personnel.

Family Member Moves Out

Families are required to notify BCHA if any family member leaves the assisted household. When the family notifies BCHA, they must furnish the following information:

The date the family member moved out.

The new address, if known, of the family member.

A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-Making Activity in Unit

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation.

If BCHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation.

If BCHA determines the business is not legal, it will be considered a program violation.

Interest in Unit The owner may not reside in the assisted unit regardless of whether she/he is a member of the assisted family, unless the family owns the mobile home and rents the pad.

Fraud

In each case, BCHA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

A. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514,5.516,5.518]

Denial or termination due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. BCHA must offer the family an opportunity for a hearing. (See “Eligibility for Admission” chapter, section on Citizenship/Eligible Immigration Status).

Assistance may not be terminated while verification of the participant family’s eligible immigration status is pending.

False or Incomplete Information

When BCHA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, BCHA [will] give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status.

BCHA will then verify eligible status, deny, terminate, or prorate as applicable.

BCHA will deny or terminate assistance based on the submission of false information or misrepresentation.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with BCHA whether after the INS appeal or in lieu of the INS appeal.

After BCHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

B. ZERO (\$0) ASSISTANCE TENANCIES (24CFR 982.455(a))

The family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180-day timeframe, an owner rent increases or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment; BCHA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

C. OPTION NOT TO TERMINATE FOR MISREPRESENTATION [24 CFR982.551,982.552 (C

If the family has misrepresented any facts that caused BCHA to overpay assistance, BCHA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses BCHA in full within 60 sixty business days.

D. MISREPRESENTATION IN COLLUSION WITH OWNER [24 CFR 982.551,982.552 (c)]

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, BCHA will deny or terminate assistance.

E. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551,982.552 (c)]

It is a Family Obligation to supply information, documentation, and certification as needed for BCHA to fulfill its responsibilities. BCHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow BCHA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying BCHA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow BCHA to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

Eligibility for Admissions

Verification Procedures

Voucher Issuance and Briefings

Housing Quality Standards and Inspections

Interim changes

Reexaminations

Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

Medical emergencies or family emergencies

F. PROCEDURE WHEN APPOINTMENTS ARE MISSED OR INFORMATION NOT PROVIDED

For most purposes in this Plan, the family will be given two opportunities before being issued a notice of termination or denial for breach of a family obligation.

After issuance of the termination notice, the family offers to correct the breach within the time allowed to request a hearing; the Notice of Termination will be rescinded if the family offers to cure and does not have a history of non-compliance.

G. HQS BREACH

The inspector will determine if any HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches if the violation is not deemed an emergency.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, Termination of tenancy for certain reason will also result in termination of assistance as discussed in this section.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence against Women Act of 2013 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*—meaning any member of the household, a guest, or another person under the tenant's control—commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision
- The owner’s desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent)

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

Note that “other good cause” does **not** include vacating a property that has been foreclosed upon during the lease term prior to the sale of that property. However, the new owner of the property may terminate the tenancy effective on the date of transfer of the unit if the owner will occupy the unit as a primary residence and has provided the tenant a notice to vacate at least 90 days before the effective date of such notice [Notice PIH 2010-49]. Further information on the protections afforded to tenants in the event of foreclosure can be found in Section 13-II.G.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

BCHA Policy

If the eviction action is finalized in court, the owner must provide BCHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than five business days following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- 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.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

BCHA Policy

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

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

BCHA Policy

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

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

BCHA Policy

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

- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence. The composition of the assisted family residing in the unit must be approved

by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request BCHA approval to add any other family member as an occupant of the unit.

BCHA Policy

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

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

BCHA Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

BCHA Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than thirty business days. Written notice must be provided to BCHA at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.

- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

Chapter 13

OWNERS

INTRODUCTION

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 [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

This chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

BCHA Policy

BCHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. BCHA will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

Distributing printed material about the program to property owners and managers

Holding landlord workshops at least quarterly.

Participating in community-based organizations comprised of private property and apartment owners and managers

Developing working relationships with owners and real estate brokers associations

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

BCHA Policy

All BCHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

BCHA will give special attention to helping new owners succeed through activities such as:

Providing the owner with a designated BCHA contact person.

Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the PHA to assist families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

BCHA Policy

Owners that indicate their willingness to lease a unit to eligible families will be referred to list their unit(s) on www.affordablehousing.com.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential unassisted tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at least annually to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards and policies for HQS inspections at initial lease-up and throughout the family's tenancy.

The PHA must determine that the proposed rent for the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See

chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the PHA must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-for-word to the owner's lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Compliance with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allow reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1))

13-I.D. OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The PHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]; Form HUD-52641, Section 13]

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

Such “covered individual” may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or for one year thereafter.

Immediate family member means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

HUD may waive the conflict-of-interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include the following [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state’s attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of their duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

BCHA Policy

In considering whether to request a conflict of interest waiver from HUD, BCHA will consider factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular

family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the PHA to disapprove a request for tenancy for various actions and inactions of the owner.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

BCHA Policy

BCHA will refuse to approve a request for tenancy if BCHA becomes aware that any of the following are true:

The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

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

The owner has engaged in any drug-related criminal activity 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 of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of BCHA, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;

BCHA The owner has a history or practice of renting units that fail to meet state or local housing codes; or

The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the PHA will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the PHA may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents BCHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

BCHA Policy

BCHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

PART II HAP CONTRACTS

13-II.A. OVERVIEW

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by an HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family approved by the PHA to occupy the unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and use their assistance to lease the space for the manufacture home. See chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

When the PHA has determined that the unit meets program requirements and the tenancy is approvable, the PHA and owner must execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic contract information: 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 owner and tenant, and the signatures of the PHA representative and owner [HCV Guidebook, pp. 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. BCHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

PHAs also have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

BCHA Policy

BCHA has not adopted a policy that defines when the housing assistance payment by BCHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third-Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. Tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By accepting the monthly check from the PHA, 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; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

BCHA Policy

The owner must inform BCHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform BCHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide BCHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, BCHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform BCHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

BCHA Policy

Before BCHA invokes a remedy against an owner, BCHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, BCHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, BCHA will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

BCHA Policy

BCHA may elect to terminate the HAP contract in each of the following situations:

Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];

The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;

The unit does not meet HQS [24 CFR 982.404] – see chapter 8;

The family breaks up [HUD Form 52641] – see chapter 3;

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

BCHA Policy

In all cases, HAP contract terminates at the end of the calendar month that follows the calendar month in which BCHA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to BCHA any housing assistance payment received after this period. If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. CHANGE IN OWNERSHIP/ ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

BCHA Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

BCHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within ten business days of receiving the owner's request, BCHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to BCHA 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.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, BCHA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, BCHA will process the leasing in accordance with the policies in chapter 9.

13-II.G. FORECLOSURE [HUD-52641 and Notice PIH 2010-49]

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). Specifically, the HAP contract now contains language stating that in the case of any foreclosure, the immediate successor in interest in the property pursuant to the foreclosure will assume such interest subject to the lease between the prior owner and the tenant, and to the HAP contract between the prior owner and the PHA for the occupied unit. This provision of the HAP contract does not affect any state or local law that provides longer time periods or other additional protections for tenants.

If the PHA learns that a property is in foreclosure, it must take the following actions:

- Make all reasonable efforts to determine the status of the foreclosure and ownership of the property. (Further guidance on how to obtain this information can be found in Notice PIH 2010-49.)
- Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.
- Attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. The written agreement should include a request for owner information, such as a tax identification number, and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.
- Inform the tenant that they must continue to pay rent in accordance with the lease, and if the successor in interest refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.
- Inform the tenant in the event that the PHA is unable to make HAP payments to the successor in interest due an action or inaction by the successor that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the successor. The PHA should also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.
- Make reasonable inquiries to determine whether the unit, in addition to having a tenant receiving HCV assistance, will be or has been assisted under the Neighborhood Stabilization Program (NSP). (For further guidance on cases in where the units have been assisted under the NSP, see Notice PIH 2010-49.)

PHAs are also required to notify HCV applicants who have been issued a voucher, participant heads of household, and current and prospective owners of HCV-assisted housing of the protections afforded to tenants under the PTFA.

BCHA Policy BCHA will provide all HCV applicants that have been issued a voucher with information regarding the PTFA at admission (see Section 5-I.B) and to participant heads of household at annual reexamination. BCHA will provide information regarding the PTFA to prospective owners when they begin their participation in the HCV program and to current HCV owners one time with the monthly HAP.

Note that the foreclosure provision of the HAP contract and additional tenant protections under the Protecting Tenants at Foreclosure Act will sunset December 31, 2014.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

BCHA Policy

To ensure that BCHA’s HCV program is administered according to the highest ethical and legal standards, BCHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

BCHA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

BCHA will provide each applicant and participant with a copy of “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

BCHA will provide each applicant and participant with a copy of “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. In addition, BCHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

BCHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family or owner.

BCHA staff will be required to review and explain the contents of all HUD- and BCHA-required forms prior to requesting family member signatures.

At every reexamination, BCHA staff will explain any changes in HUD regulation to BCHA policy that affect program participants.

BCHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

BCHA will provide owners the ongoing information about the program, with an emphasis on actions and situations to avoid.

BCHA will provide each BCHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the PHA will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

BCHA Policy

In addition to the SEMAP quality control requirements, BCHA will employ a variety of methods to detect errors and program abuse.

BCHA routinely will use HUD and other non-HUD sources of up-front income verification; this includes The Work Number and any other private public databases available to BCHA.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

BCHA will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

BCHA Policy

BCHA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of BCHA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

BCHA Policy

BCHA will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

BCHA Policy

BCHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for BCHA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

BCHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to sign consent forms for the release of additional information.

Analysis and Findings

BCHA Policy

BCHA will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole show that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence

For each investigation BCHA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed BCHA, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

BCHA Policy

In the case of family-caused errors or program abuse, BCHA will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, BCHA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

BCHA Policy

BCHA will inform the relevant party in writing of its findings and remedies within ten business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which BCHA determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

BCHA Policy

Increases in the family share will be implemented on the first of the month following a written thirty-day notice.

Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse the PHA or the PHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]

BCHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. BCHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, BCHA will terminate the family's assistance in accordance with the policies in Chapter 12.

PHA Reimbursement to Family [HCV GB p. 22-12]

BCHA Policy

BCHA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

BCHA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by BCHA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to BCHA Board of Commissioners, employees, contractors, or other BCHA 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 BCHA 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

BCHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.

- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family’s assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to the PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

BCHA Policy

In cases where the owner has received excess subsidy, BCHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

BCHA Policy

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by BCHA

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 BCHA Board of Commissioners, employees, contractors, or other BCHA representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to BCHA

Residing in the unit with an assisted family

Remedies and Penalties

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to the PHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].

PHA Reimbursement to Family or Owner

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

BCHA Policy

Any of the following will be considered evidence of program abuse by BCHA staff:

Failing to comply with any HCV program requirements for personal gain

Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner

Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to BCHA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of BCHA activities, policies, or practices

Misappropriating or misusing HCV funds

Destroying, concealing, removing, or inappropriately using any records related to the HCV program

Committing any other corrupt or criminal act in connection with any federal housing program

14-II.E. CRIMINAL PROSECUTION

BCHA Policy

When BCHA determines that program abuse by an owner, family, or BCHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, BCHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

BCHA Policy

Families will not be permitted to use any special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Effective September 27, 2021, HUD-VASH clients have the option to use the following special housing types: Single Room Occupancy, Congregate Housing, Group Homes, Shared Housing and Cooperative Housing as required under Federal Register Vol 86, No. 184/ Monday, September 27, 2021/Rules and Regulations

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605]

15-I.A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the PHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except as modified below.

- *Access:* Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety:* All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply [24 CFR 982.605].

- *Sanitary Facilities:* At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security:* An SRO unit must contain at least 110 square feet of floor space, and at least four-square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609]

15-II.A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms, (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below.

Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.

The housing quality standards applicable to lead-based paint do not apply.

PART III: GROUP HOME

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

15-III.A. OVERVIEW

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be zero- or one-bedroom, depending on the PHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the pro rata share of the payment standard for the group home size. The pro rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the pro rata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro rata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. HOUSING QUALITY STANDARDS

HQS requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- *Sanitary Facilities:* A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service:* Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security:* Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
 - Dangerous walks or steps
 - Instability
 - Flooding, poor drainage
 - Septic tank back-ups
 - Sewage hazards
 - Mud slides
 - Abnormal air pollution
 - Smoke or dust
 - Excessive noise
 - Vibrations or vehicular traffic
 - Excessive accumulations of trash
 - Vermin or rodent infestation, and
 - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618]

15-IV.A. OVERVIEW

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the pro rata share of the payment standard for the shared housing unit size.

The pro rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the lower of the utility allowance for the family unit size (voucher size) or the pro rata share of the utility allowance for the shared housing unit.

Example: A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals \$200

The utility allowance for a 2-bedroom unit equals \$100

The pro rata share of the utility allowance is \$150 (3/4 of \$200)

The PHA will use the 2-bedroom utility allowance of \$100.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA should consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A zero-bedroom or one-bedroom unit may not be used for shared housing.

PART V: COOPERATIVE HOUSING

[24 CFR 982.619]

15-V.A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.”

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

15-V.C. HOUSING QUALITY STANDARDS

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624; FR Notice 1/18/17]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D.

(2) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL POLICIES FOR MANUFACTURED HOME OWNERS WHO LEASE A SPACE

Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17]

Payment Standards

The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

Utility Allowance

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up

charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid unities.

Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent (including other eligible housing expenses) minus the TTP.

Rent Reasonableness

Initially, and annually thereafter the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

15-VI.D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

15-VII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and a single down payment assistance grant. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.

The PHA must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

PROGRAM RULES

BCHA Policy

BCHA supports programs and activities to support self-sufficiency for its clients. To meet this objective, BCHA exercises the option under the Section 8 regulations (24 CFR 982) to allow the use of Section 8 voucher for homeownership.

MAXIMUM PROGRAM SIZE

The homeownership option is limited to twenty-five HCV participants in any fiscal year.

15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

In addition to the eligibility requirements for families in the regulations, families must not owe any money and/or be delinquent in repayment of any money owed to the PHA or to any other PHA. They must also meet one of the following requirements:

- The family must have been admitted to the HCV Program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- The family's income must be equal or exceed forty percent of the HUD determined area median income (AMI) based on the number of persons in the family.
- Public assistance income may not be used for meeting the income requirement, except for households in which the head or spouse is elderly or disabled and households that include a disabled person other than head or spouse. Public assistance includes TANF assistance, SSI that is subject to an income eligibility test; food stamps; general assistance or other assistance provided under a Federal, state, or local program that provides assistance available to meet family living or housing expenses.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation. The Chief Executive Officer may also consider whether to what extent an employment interruption is considered permissible in satisfying the employment requirement. The Chief Executive Officer may also consider successive employment during the one-year period and self-employment. Elderly and disabled families are exempt from the employment requirements. In the case of an elderly or disabled family, BCHA will consider income from all sources.

- Applicants for and new participants in the Section 8 HCV Program shall be ineligible for participation in the Section 8 homeownership program until completion of an initial Section 8 lease term and participant’s first annual recertification in the Section 8 HCV Program. Nothing in this provision will preclude Section 8 participants that have completed an initial lease term in another jurisdiction from participating in the Section 8 homeownership Program.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

15-VII.C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

- Preferences will be given to current FSS participants with FSS contracts that detail homeownership as a goal and elderly/disabled families.
- Family is in good standing with the program
- Meets eligibility criteria cited in this plan
- Date and time of application

15-VII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD’s “eligible housing” requirements. The unit may not be any of the following:
 - A public housing or Indian housing unit;
 - A unit receiving Section 8 project-based assistance;
 - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
 - A college or other school dormitory;

- On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.
- A family may purchase the following types of homes within Broward County: a new or existing single-family home, condominium, a home in a planned use development, a cooperative, or loft. The home must already exist or be under construction at the time Broward County Housing Authority determines the family eligible for homeownership assistance.
- For PHA-owned units all of the following conditions must be satisfied:
 - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
 - The unit is not ineligible housing;
 - The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

MINIMUM HOMEOWNER DOWN PAYMENT

Voucher holder is required to put down a minimum of 3% of the purchase price as down payment. At least 1% of the purchase price can come from the family's personal resources.

LOCATING AND PURCHASING A HOME

An approved homeownership participant shall have one hundred eighty days to locate a home to purchase. A home shall be considered located if the family submits a proposed sales agreement with the requisite components to the PHA. During a Section 8 participants' search for a home, their Section 8 rental assistance shall continue pursuant to the Administrative Plan.

If a Section 8 participant family is unable to locate a home with the time approved by the PHA, their Section 8 rental assistance shall continue.

PURCHASING A HOME

Once a home is located and a sales agreement approved by the PHA is signed by the family, the family shall have up to three (3) months, or such other time as is approved by the PHA's Chief Executive Officer or set forth in the PHA's approved sales agreement, to purchase the home.

FAILURE TO COMPLETE PURCHASE

If a Section 8 participant is unable to purchase the home within the maximum time permitted by the PHA, the PHA shall continue the family's participation in the Section 8 HCV Program. The family may not re-apply for the Section 8 HCV Program until they have completed an additional year of participation in the Section 8 HCV Program following the initial determination of their eligibility for the homeownership option.

LEASE-PURCHASE

Families may enter into lease-purchase agreements while receiving Section 8 rental assistance. All requirements of the HCV Program apply to lease-purchase agreements, except that families are permitted to pay an extra amount out-of-pocket to the owner for purchase related expenses – a "home ownership premium." Any "homeownership premium", defined as increment of value attributable to the value of the lease-purchase right or agreement, is excluded from PHA's rent reasonableness determination and subsidy calculation, and must be absorbed by the family. When a lease-purchase participant family is ready to exercise their option, they must notify the PHA Homeownership Counselor.

15-VII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;

- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

15-VII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The PHA may not commence monthly homeownership assistance payments for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

15-VII.H. FINANCING [24 CFR 982.632]

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

A PHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

Financing Requirements

The household is responsible for obtaining financing. The terms must be submitted to and approved by The PHA prior to close of escrow. The PHA shall determine the affordability of the family's proposed financing. Certain type of financing, including but not limited to, balloon payment mortgages, are prohibited and will not be approved by the PHA. If a mortgage is not FHA-insured, PHA will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/FHA, Ginnie Mae, Fannie Mae, Freddie Mac, Broward Housing Finance Authority, the Federal Loan Ban or other private lending institution.

15-VII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

Compliance Lien

Upon purchase of a home, the family must execute documentation as required by HUD and the PHA, consistent State and local law, securing the PHA's right to the recapture home ownership subsidy. The lien securing the recapture home ownership subsidy may be subordinated to a refinance mortgage.

15-VII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of twenty years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made?

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least six months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) the payment standard as determined the commencement of homeownership assistance for occupancy of the home or (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of the homeownership assistance for occupancy of the home.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Determining the Payment Standard

The voucher payment standard is the fixed amount the PHA annually establishes as the “fair market” rent for a unit of a particular size located within the PHA’s jurisdiction. In the home ownership program, the initial payment standard will be the lower of either (1) the payment standard for which the family is eligible based on family size; or (2) the payment standard which is applicable to the size of the home for which the family decides to purchase. The payment standard for subsequent years will be based on the higher: (1) the payment standard in effect at commencement of the homeownership assistance; or (2) the payment standard in effect at the most recent regular reexamination of the family’s income and size. The initial payment standard for purposes of this comparison shall not be adjusted even if there is a subsequent decrease in family size. The PHA will request HUD approval of the published Fair Market Rent limit where warranted as a reasonable accommodation for a family that include a person with disabilities.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;

- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Determining the Total Family Contribution

The TFC is that portion of the homeownership expense that the family must pay. It is generally thirty percent of the family's adjusted income plus any gap between the payment standard and the actual housing cost. All family income (including public assistance), will be counted to determine the family's adjusted monthly income for purposed of determining the amount of assistance.

Payments to Family or Lender

The PHA will provide the lender with notice of the amount of the housing assistance payment prior to close of escrow and will pay the PHA's contribution towards the family's homeownership expense directly to the family, unless otherwise required by the lender. The family will be responsible to submit the entire mortgage payment to the lender unless the lender requires direct payment of the PHA's contribution.

Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home; and

- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-VII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

15-VII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance:

- If the PHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy, with the exception of failure to meet obligations under the Family Self-Sufficiency program as prohibited under the alternative requirements set forth in FR Notice 12/29/14.

The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

TERMINATION OF SECTION 8 HOMEOWNERSHIP ASSISTANCE GROUNDS FOR TERMINATION OF HOMEOWNERSHIP ASSISTANCE

- Failure to comply with Family Obligations under the Section 8 program or The PHA's Homeownership policies, or if the family defaults on the mortgage. The family must provide the PHA with written notice of any plan to move out the home prior to the move; the family's household income and homeownership expenses on an annual basis; any notice of mortgage default received by the family; and any other notices which may be required pursuant to the PHA's homeownership policies. Except as otherwise provided in this Section, the family may not convey or transfer the voucher to any entity or person other than a member of the assisted family while receiving homeownership assistance.
- Occupancy of home- Homeownership assistance will only be provided while the family resides in the home. If the family moves out of the home, Broward County Housing Authority will not continue homeownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse the PHA for homeownership assistance paid for the month the family moves out.
- Changes in income eligibility- A family's home ownership assistance may be changed in the month following annual recertification of the household income, but participation in the Section 8 Homeownership program shall continue until such time as the assistance payment amounts to \$0 for a period of (6) consecutive months.
- Maximum Term of Homeownership Assistance- Notwithstanding the provision of Section C2 except for disabled and elderly families, a family may receive Section 8 Homeownership assistance for not longer than ten years from the date of close of escrow unless the initial mortgage incurred to finance purchase of the home has a term that is 20 years or longer, in which case the maximum term is fifteen years. Families that qualify as elderly at the commencement of home ownership assistance are not subject to maximum term limitation. Families that qualify as disabled families at the commencement of home ownership assistance of any at any time that is twenty years or longer, in which case the maximum term is fifteen years. Families that qualify as elderly at the commencement of

home ownership assistance are not subject to a maximum term limitation. Families that qualify as disabled families at the commencement of the home ownership assistance or at any time during the provision of home ownership assistance are not subject to a maximum term limitation. If a disabled or elderly family ceases to qualify as disabled or elderly, the appropriate maximum term becomes applicable from the date home ownership assistance commenced; provided, however, that such family shall be eligible for a least six additional months of home ownership assistance after the maximum term becomes applicable. The time limit applies to any member of the household who has an ownership interest in the unit during any time that home ownership payments are made, or a spouse of any member of the household who has an ownership interest.

PROCEDURE FOR TERMINATION OF HOMEOWNERSHIP ASSISTANCE

A participant in the Section 8 Homeownership Program shall be entitled to the same termination notice and informal hearing procedures as set forth in the Broward County Housing Authority Section 8 Administration Plan.

CONTINUED PARTICIPATION IN SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

1. Default on FHA-insured mortgage, Broward County Housing Authority may permit the family to move with continued Section 8 housing choice rental assistance if the family demonstrates that it has (a) conveyed title to the home to HUD or its designee as required by HUD; and (b) moved from the home within the period established or approved by HUD.
2. Default on non FHA-insured mortgage. If the family defaults on a mortgage that is not FHA-insured, the PHA may permit the family to move with continued Section 8 housing choice voucher rental assistance if the family demonstrated that it has (a) conveyed title to the home to the lender, to the PHA or its designee, as may be permitted or required by the lender; and (b) moved from the home within the period established or approved by the lender and the PHA.

BROWARD COUNTY HOUSING AUTHORITY ADMINISTRATIVE FEE

For each month that homeownership assistance is paid by the PHA on behalf of the family, Broward County Housing Authority shall be paid the ongoing administrative fee described in 24 CFR 982.152(b).

APPLICABILITY OF OTHER ADMINISTRATIVE PLAN SECTIONS

The regulations for the Section 8 Homeownership Program specify which types of provisions of the voucher regulations do not apply to assistance provided under the homeownership option (24 CFR 982.641). The following types of provisions of the Section 8 regulations and the implementing policies in the Administrative Plan do not apply:

- Provisions concerning the Section 8 owner or the HAP contract between the PHA and the owner;
- Provision concerning the assisted tenancy or the lease between the family and the owner;

- Any provisions concerning PHA approval of the assisted tenancy;
- Any provisions concerning rent to owner or reasonable rent; and
- Any provisions concerning the issuance or term of voucher.

In the event of any conflict between provisions of the Section 8 Homeownership regulations and this Administrative Plan, the Section 8 regulations take precedence.

WAIVER OR MODIFICATION OF HOMEOWNERSHIP POLICIES

The Chief Executive Officer of Broward County Housing Authority shall have the discretion to waive or modify any provision of the Section 8 home ownership program or policies not governed by statute or regulation for good cause or to comply with changes in HUD regulations or directives.

APPENDIX A: SECTION 8 HOME OWNERSHIP OBLIGATIONS

This form must be signed by the home buyer(s) in the presence of the PHA's Home Ownership Program Coordinator. The Coordinator will explain any and all clauses which you, the home buyer(s), may not understand.

The following paragraphs describe your responsibilities under the Section 8 Home Ownership Program. If you or members of your household do not meet these responsibilities, through your actions or your failure to act, you may be terminated from the Section 8 Home Ownership Program

1. **Family Obligations:** You must comply with all Family Obligations of the Section 8 Housing Choice Voucher program, excepting only the prohibition against owning or having an interest in the unit. *Family obligations 982.552 (c), (d), (e), (f) and (i) do not apply to the Section 8 Homeownership Program.*
2. **Housing Counseling:** All participating family member (i.e.) those signing the purchase offer and loan documents) must satisfactorily complete a PHA approved counseling program prior to commencement of home ownership assistance. The PHA housing counseling classes as a condition of continued assistance
3. **Purchase Contract:** You must include contract conditions in any Offer to Purchase that give the PHA Authority a reasonable time (a) to inspect the home for compliance with HUD's Housing Quality Standards; (b) to review and approve a professional home inspection report obtained by you from an approved inspector; and (c) approve the terms of your proposed financing. Advise your realtor these requirements.
4. **Mortgage Obligations:** you must comply with the terms of any mortgage incurred in the purchase of the property and must notify PHA's Home Ownership Program Counselor within five days of receipt of any late payment or default notice.
5. **Occupancy:** You must occupy the unit as your principal residence. You may not transfer, sell, or assign any interest in the property without the PHA's prior written consent. You may not rent or lease any part of the premises without the PHA's prior written consent. You must notify the PHA in writing at least 30 days prior to moving out of the house for a period of thirty days or longer or prior to any sale, transfer, assignment, lease or other form of alienation of the assisted property.

6. Maintenance: You must maintain the property in a decent, safe, and sanitary manner. You must allow the PHA to inspect the property within one-week of a demand by the PHA to conduct an inspection. You must correct any notice of deficiency by the PHA to conduct an inspection. You must correct any notice of deficiency issued by the PHA with the time limit specified in the notice. If you fail to adequately maintain the property, the PHA may divert the maintenance and replacement reserves portions of the Home Ownership Assistance Payment to an escrow account to be used to pay for reasonable and necessary maintenance expenses.

7. Annual Re-examination: You must annually provide the PHA with current information regarding family income and composition in a format required by the PHA

8. Refinancing: A family may refinance to take advantage of lower interest rate, or better mortgage terms, without any recapture penalty. You must notify the PHA in writing of any proposal to refinance the original purchase mortgage or of any proposal to encumber the property with secondary financing and obtain the PHA's written approval of such financing prior to executing any loan documents.

9. Default: In the event of a default on your mortgage obligation, you must cooperate with the PHA and the lender to minimize any loss to the lender to maintain your eligibility to continue to participate in the Section 8 HCV Program.

10. Recapture: (See #8 Refinancing)

By signing below, I attest that I have read and understood my obligations as a participant in the Section 8 Home Ownership Program and I agree to abide by these responsibilities. I understand that the PHA may terminate my home ownership assistance if I violate any of these obligations, but that I may request an informal review of any proposed notice of termination prior to it becoming effective.

Signature

Date

Witness

Section 8 Housing Manager

Chapter 16

PROGRAM ADMINISTRATION

INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

16-I.A. OVERVIEW

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNA account without specific approval.

BCHA Policy

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed \$10,000 per occurrence without the prior approval of BCHA’s Board of Commissioners.

PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

BCHA Policy

Copies of the payment standard and utility allowance schedules are available for review in BCHA's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

BCHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained as required by the most stringent requirement (at minimum three years).

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area, or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high [24 CFR 982.503(g)].

BCHA Policy

BCHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" BCHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: BCHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. BCHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than thirty (30%) percent of their monthly adjusted income as the family share. When forty (40%) percent or more of families, for any given unit size, are paying more than thirty (30%) percent of adjusted monthly income as the family share, BCHA will consider increasing the payment standard. In evaluating rent burdens, BCHA will not include families renting a larger unit than their family unit size.

Quality of Units Selected: BCHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

Changes in Rent to Owner: BCHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: BCHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: BCHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective on January 1st of every year, or within three months of the FMR effective date, whichever is earlier. The effective date is applicable both to HUD-required revisions and to discretionary revisions.

Exception Payment Standards [982.503(c)]

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]

Unit-by-unit exceptions to the PHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

BCHA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, BCHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed forty (40%) percent of adjusted monthly income; and
- The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;

- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

BCHA Policy

BCHA has included an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before BCHA will apply this allowance to a family's rent and subsidy calculations.

Reasonable Accommodation

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The PHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

Decisions Subject to Informal Review

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition

BCHA Policy

BCHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on BCHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

Notice to the Applicant [24 CFR 982.554(a)]

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

Scheduling an Informal Review

BCHA Policy

A request for an informal review must be made in writing and delivered to BCHA either in person or by first class mail, by the close of the business day, no later than ten business days from the date of BCHA's denial of assistance.

BCHA must schedule and send written notice of the informal review within ten business days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

Informal Review Decision [24 CFR 982.554(b)]

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

BCHA Policy

In rendering a decision, BCHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. BCHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for

denial, and the denial is required by HUD, BCHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, BCHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

BCHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within ten business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act

- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under BCHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with HQS because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

BCHA Policy

BCHA will only offer participants the opportunity for an informal hearing when required to by the regulations.

Informal Hearing Procedures

***Notice to the Family* [24 CFR 982.555(c)]**

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

BCHA Policy

In cases where BCHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of BCHA.

A brief statement of the reasons for the decision, including the regulatory reference.

The date the proposed action will take place.

A statement of the family's right to an explanation of the basis for BCHA's decision.

A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

A deadline for the family to request the informal hearing.

To whom the hearing request should be addressed.

A copy of BCHA's hearing procedures.

Mitigating Circumstance for Applicants/Participants with Disabilities

When applicant is denied placement on the waiting list, or the PHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance prior to or during the informal hearing review process.

- a) A person with a cognitive disorder may not have understood the requirements to report increase in income.
- b) A person may not understand the need to make regular repayments on a promissory note.
- c) Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

Definitions:

Grievance: Shall mean any dispute which a tenant may have with respect to Housing Authority action or failure to act in accordance with HCV regulations, or administrative policy which adversely affect the individual tenant's rights, duties welfare and status.

Complainant: Shall mean any tenant whose grievance is presented to the Housing Authority in accordance with the procedure described herein.

Hearing Officer: Shall be by any person or persons designated by the authority, other than a person who came or approved the decision under review or a subordinate of such person.

Scheduling an Informal Hearing [24 CFR 982.555(d)]

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

BCHA Policy

A request for an informal hearing must be made in writing and delivered to BCHA either in person or by first class mail, by the close of the business day, no later than ten business days from the date of BCHA's decision or notice to terminate assistance.

BCHA must schedule and send written notice of the informal hearing to the family within ten business days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, BCHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact BCHA within twenty-four hours of the scheduled hearing date, excluding weekends and holidays. BCHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

The applicant or participant will be provided with written notice of the decision denying assistance, or reasons for the decision relating to the individual circumstances of the family in accordance with law, HUD regulation and Housing Authority rules.

The notice shall state that the applicant or participant may request an informal review if they do not agree with the decision.

The request must be in writing and submitted within ten business days from the date of the notice.

- a) **Selection of a Hearing Officer:** The informal hearing shall be conducted by the hearing officer appointed by BCHA who is neither the person who made or approved the decision, nor a subordinate of that person. BCHA appoints hearing officers who are BCHA Management or Managers from other PHA's or governmental agencies, BCHA staff who is neither the person who made or approved the decision, nor a subordinate of that person, private Attorneys.
- b) **Failure to request a hearing:** If the complainant does not request a hearing within the prescribed time as specified in the Section D part 2, then the action taken by the Housing Authority, as stated in the notice to tenant, shall become final, provided, however, that failure to request a hearing shall not constitute a waiver by the complaint of his right

thereafter to contest the Housing Authority's actions in disposing the complaint in an appropriate judicial proceeding.

BCHA Policy

If the complainant does not request a hearing within the prescribed time as specified in Section D part 2, then the action taken by BCHA, as stated in the notice to the tenant, shall become final, provided, however, that (1) failure to request a hearing shall not constitute a waiver by the complainant of his right thereafter to contest BCHA's actions in disposing the complaint in an appropriate judicial proceeding. And (2) If the family makes a late request for a hearing, BCHA will consider such request on a case-by-case basis. BCHA will grant such a request for a hearing when the reason for the late request is due to good cause or if it is needed as a reasonable accommodation for a person with disabilities. At its discretion, BCHA may request documentation of the "good cause" prior to scheduling a hearing.

When BCHA does not grant the late hearing request, BCHA will provide written notice to the participant of a decision denying the "late" hearing request.

- c) **Scheduling of hearings:** Upon complainant's compliance of Section D, part 2 of this paragraph, a hearing shall be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the Housing Authority. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

BCHA Policy

BCHA will provide a copy of the related documents to the family upon request for an informal hearing.

If the family requests additional documentation, the family will be allowed to copy any documents related to the hearing in accordance with Florida Statutes 119.07 at a cost of \$.15 cents per one sided copy, no more than an additional \$.20 cents for each two-sided copy. The family must request discovery of BCHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

BCHA must be given an opportunity to examine at BCHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, BCHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than five business days prior to the scheduled hearing date.

Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

Informal Hearing Officer [24 CFR 982.555(e)(4)]

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

Attendance at the Informal Hearing

BCHA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

A BCHA representative(s) and any witnesses for BCHA

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by BCHA as a reasonable accommodation for a person with a disability.

Conduct at Hearings

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

BCHA Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for

conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

In addition to other rights contained in this Chapter, BCHA has a right to:

1. Present evidence and any information pertinent to the issue of the hearing.
2. Be notified if the family intends to be represented by legal counsel, advocate, or another party.
3. Examine and copy any documents to be used by the family prior to the hearing.
4. Be notified at least twenty-four hours in advance of any witness the family intends to call.
5. Have its attorney present, and
6. Have staff persons and other witnesses familiar with the case present.
7. If the complainant fails to appear at the scheduled hearing, the hearing officer may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his right to a hearing. Both the complainant and BCHA shall be notified of the determination by the hearing officer, provided that a determination that the complainant has waived his right to a hearing shall not constitute a waiver of any right the complainant may have to contest BCHA's disposition of the grievance in an appropriate judicial processing.
8. The hearing shall be conducted informally by the hearing officer and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer shall require BCHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly party and granting or denial of the relief sought, as appropriate.

Evidence [24 CFR 982.555(e)(5)]

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

BCHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to BCHA. Writings include all forms of recorded communication or

representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the PHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Procedures for Rehearing or Further Hearing

BCHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of BCHA will take effect and another hearing will not be granted.

Hearing Officer's Decision [24 CFR 982.555(e)(6)]

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

BCHA Policy

In rendering a decision, the hearing officer will consider the following matters:

BCHA Notice to the Family: The hearing officer will determine if the reasons for BCHA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if BCHA and the family were given the opportunity to examine any relevant documents in accordance with BCHA policy.

BCHA Evidence to Support the PHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support BCHA's conclusion.

Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and BCHA policies. If the grounds for termination are not specified in the regulations or in compliance with BCHA policies, then the decision of BCHA will be overturned.

The hearing officer will issue a written decision to the family and BCHA no later than ten business days after the hearing. The report will contain the following information:

Hearing information:

Name of the participant;

Date, time and place of the hearing;

Name of the hearing officer;

Name of the PHA representative; and

Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold BCHA's decision.

Order: The hearing report will include a statement of whether BCHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct BCHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct BCHA to restore the participant's program status.

The hearing officer shall prepare a written decision, together with the reasons therefore, within ten business days after the hearing. A copy of the decision shall be sent to the complainant and the Housing Authority. The Housing Authority shall retain a copy of the decision in the tenant folder for the period up to three years.

Issuance of Decision [24 CFR 982.555(e)(6)]

A copy of the hearing must be furnished promptly to the family.

BCHA Policy

The hearing officer will provide a “Notice of Hearing Decision” to BCHA. The agency will provide the “Notice of Hearing Decision” to the participant. A copy of the “Notice of Hearing Decision” will be maintained in BCHA’s file.

Effect of Final Decision [24 CFR 982.555(f)]

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If the PHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

BCHA Policy

The Chief Executive Officer has the authority to determine that BCHA is not bound by the decision of the hearing officer because BCHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

In such a case, BCHA will mail a “Notice of Final Decision” to the participant and their representative (if applicable) on the same day. The “Notice of Final Decision” will be sent by first-class mail. A copy of this notice will be maintained in BCHA’s file

16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

INS Determination of Ineligibility

- If a family claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the PHA notifies the applicant or participant within ten (10) days of their right to appeal to INS within thirty (30) days or to request an informal hearing with the PHA either in lieu of or subsequent to the INS appeal.
- If the family appeals to the INS, they must give the PHA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The time period to request an appeal may be extended by the PHA for good cause.
- The request for a PHA hearing must be made within fourteen days (14) of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen (14) days of receipt of that notice.
- After receipt of a request for an informal hearing. The hearing is conducted as described in section E of this chapter for both applicants and participants, if the hearing officer decides that the individual is not eligible, and there are no other eligible family members the PHA Will:
 - Deny the family.
 - Defer termination if the family is participant and qualifies for the deferral.
 - If there are eligible members in the family, the PHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complains related to eligible immigrant status:

If any member fails to provide documentation or certification as required by the regulation, the member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type or fraud.

USCIS Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

BCHA Policy

BCHA will notify the family in writing of the results of the USCIS secondary verification within ten business days of receiving the results.

The family must provide BCHA with a copy of the written request for appeal and proof of mailing within thirty business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

BCHA Policy

BCHA will send written notice to the family of its right to request an informal hearing within ten business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

BCHA Policy

The family will be allowed to copy any documents related to the hearing in accordance with Florida Statutes 119.07 at a cost of \$.15 cents per one sided copy, an additional \$.20 cents for each two-sided copy. The family must request discovery of BCHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

BCHA Policy

BCHA will not provide a transcript of an audio taped hearing.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

16-IV.A. OVERVIEW

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

BCHA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, BCHA holds the owner or participant liable to return any overpayments to BCHA.

BCHA 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 BCHA, BCHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

16-IV.B. REPAYMENT POLICY

This Chapter describes the PHA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the PHA's policy to meet the informal needs of owners and families, and to communicate the programs rules in order to avoid owners and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the PHA's claims that the debts is owed. The file must further contain written documentation of the method of calculation, in clear format for review by the owner, the family or other interested parties. When a families or owners owe money to the PHA, The PHA will make every effort to collect it. The PHA will use a variety of collection to recover debts including, but no limited to:

- Request for lump sum payments
- Civil Suits
- Repayment Agreement
- Abatements and reductions of HAP to owners
- Collection Agencies
- Credit Bureaus

Owner Debts to the PHA

BCHA Policy

Any amount due to BCHA by an owner must be repaid by the owner within thirty business days of BCHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, BCHA 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 BCHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by BCHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, BCHA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the PHA

BCHA Policy

Any amount owed to BCHA by a family must be repaid by the family. If the family is unable to repay the debt within thirty business days, BCHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, BCHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines for Families

Down Payment Requirement

BCHA Policy

Before executing a repayment agreement with a family, BCHA will generally require a down payment of ten (10%) percent of the total amount owed. If the family can provide evidence satisfactory to BCHA that the down payment would impose an undue hardship, BCHA may, at its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2017-12 recommends that the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount—should not exceed 40

percent of the family's monthly adjusted income. However, a family may already be paying 40 percent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2017-12 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

BCHA Policy

BCHA has established the following thresholds for repayment of debts:

Amounts between \$3,000 and the federal or state threshold for criminal prosecution must be repaid within thirty-six months.

Amounts between \$2,000 and \$2,999 must be repaid within thirty months.

Amounts between \$1,000 and \$1,999 must be repaid within twenty-four months.

Amounts under \$1,000 must be repaid within twelve months.

If a family can provide evidence satisfactory to BCHA that the threshold applicable to the family's debt would impose an undue hardship, BCHA may, at its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, BCHA will consider all relevant information, including the following:

The amount owed by the family to BCHA

The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control

The family's current and potential income and expenses

The family's current family share, as calculated under 24 CFR 982.515

The family's history of meeting its financial responsibilities

Execution of the Agreement

BCHA Policy

Any repayment agreement between BCHA and a family must be signed and dated by BCHA and by the head of household and spouse/cohead (if applicable).

Due Dates

BCHA Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th of that month.

Late or Missed Payments

BCHA Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by BCHA, BCHA will send the family a delinquency notice giving the family ten business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and BCHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a twelve-month period, the repayment agreement will be considered in default, and BCHA will terminate assistance in accordance with the policies in Chapter 12.

If the family's repayment is in arrears, and the family has not contacted or made arrangements with BCHA, BCHA will:

Require the family to pay the balance in full or

Terminate the housing assistance

If the family request a move to another unit and has a repayment agreement in place for the payment of an owner claim, and the repayment agreement is in arrears the family will be required to pay the balance in full prior to the issuance of a voucher.

If the family request a move to another unit and is in arrears on a repayment agreement for the payment of an owner claim, the family will be required to pay the balance in full and then will be permitted to move. There are some circumstances in which the PHA will not enter into a repayment agreement.

Guidelines for Repayment Agreements

Repayment Agreements will be executed between the PHA and a Housing Choice Voucher family. Monthly payments may be decreased in case of hardship with the prior notice of the family, verification of the hardship, and the approval of the Assisted Housing Director (s).

The total amount that a family must pay each month: the family's monthly share of rent plus the monthly debt repayment amount-should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 percent or more of its monthly adjusted income in rent. The PHA may, at its sole discretion establish "threshold and policies" for repayment agreements with the families [24 CFR 982.552(c) (1)(vii)].

No Offer of Repayment Agreement

BCHA Policy

BCHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2017-12 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

Debts Due to Fraud/Non-Reporting of Information (24CFR982.163)

HUD's definition of program fraud and abuse is a single act or pattern of action that constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 programs fund in violation of Section 8 programs requirements.

Family Error, Late Reporting, Program Fraud

Families who owe money due to failure to report income or program fraud will be required to repay in accordance with the repayment procedures for program fraud found in this plan.

If a family owes any amount as a result of program fraud, the case may be referred to the PHA Investigator and/or Inspector General. Where appropriate, the PHA will refer the case for criminal prosecution.

Debts Due To Minimum Rent Temporary Hardship

- If the family owes the PHA money for rent arrears incurred during the minimum rent period, the PHA will calculate the total amount owed and divide it by 12 months to arrive at a reasonable payback amount that the family will be required to pay to the PHA monthly in addition to the family's regular monthly rent payment to the owner. The family will be required to pay the increase amount until arrears are paid in full to the PHA.
- Minimum rent arrears that are less than (\$50.00) will be required to be paid in full the first month following the end of the minimum rent period.
- The PHA will not enter into a payment agreement that will take more than 12-months to pay off.

- If the family goes into default on the payment agreement for back rent incurred during a minimum rent period. The PHA will reevaluate the family's financial situations and determine whether the family has the ability to pay the increased rent amount and if not restructure the existing payment agreement.

PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA’s failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program Director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not rated under SEMAP indicators 1-7.

SEMAP Indicators**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 PHA's written policies, according to the PHA'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 PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.

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 PHA's quality control sample.

Indicator 4: Utility allowance schedule**Maximum Score: 5**

This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.

Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

Indicator 5: HQS quality control inspections

Maximum Score: 5

This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.

Points are based on whether the required quality control reinspection's were completed, according to the PHA'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.

Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA'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 PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of 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 PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

Indicator 8: FMR limit and payment standards

Maximum Points: 5 points

This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.

Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

Indicator 9: Annual reexaminations

Maximum Points: 10

This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.

Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations

Maximum Points: 5

This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.

Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections

Maximum Points: 5

This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.

Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections

Maximum Points: 10

This indicator shows whether the PHA inspects each unit under contract at least annually.

Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up

Maximum Points: 20 points

This indicator shows whether the PHA enters HAP contracts for 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 PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.

Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

Success Rate of Voucher Holders

Maximum Points: 5

Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.

This indicator shows whether voucher holders were successful in leasing units with voucher assistance.

Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

De-concentration Bonus Indicator

Maximum Points: 5

Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50-percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.

Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.

Points are based on whether the data that is submitted meets the requirements for bonus points.

PART VI: RECORD KEEPING

16-VI.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-VI.B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.
- 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.
- The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, and stalking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [24 CFR 5.2002(e)(12)].

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

BCHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized BCHA staff.

BCHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Privacy Act Requirements [24 CFR 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

Upfront Income Verification (UIV) Records

PHAs 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 on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

BCHA Policy

Prior to utilizing HUD's EIV system, BCHA will adopt and implement EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

Documentation of Domestic Violence, Dating Violence, Sexual assault, or Stalking

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-IX.E.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]

The owner must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days. The PHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

BCHA Policy

Upon notification by the owner, BCHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level within five business days.

Upon notification by the owner, BCHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the PHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

BCHA Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, BCHA is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

BCHA Policy

BCHA 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 BCHA'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, BCHA 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 BCHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, BCHA will be considered to have insufficient funding.

**PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION,
DOCUMENTATION, CONFIDENTIALITY**

16-IX.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. If your state or local laws provide greater protection for such victims, those laws take precedence over 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: 3-I.C, “Family Breakup and Remaining Member of Tenant Family”; 3-III.G, “Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking”; 10-I.A, “Allowable Moves”; 10-I.B, “Restrictions on Moves”; 12-II.E, “Terminations Related to Domestic Violence, Dating Violence, or Stalking”; and 12-II.F, “Termination Notice.”

Protections under this policy are available to all victims regardless of sex, actual or perceived gender identity, sexual orientation or marital status and will be applied consistent with all nondiscrimination and fair housing requirements.

16-IX.B. DEFINITIONS [24 CFR 5.2003, 42USC13925]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- 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 intimated 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 grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

- The term *spouse or intimate partner of the victim* includes a person who has been in a social relationship of a romantic or intimate nature with the victim as determined by 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 *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 person living in the household of that person and related to that person by blood and marriage
- 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:
 - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.
 - The term Perpetrator means a person who commits acts of domestic violence, dating violence, sexual assault or stalking against the victim
 - The term VAWA Self Petitioner refers to noncitizens who claim to be victims of “battery or extreme cruelty” Battery or extreme cruelty includes domestic violence, dating violence, sexual assault or stalking. VAWA allows these noncitizens to self-petition for Lawful Permanent Resident (LPR) status without the cooperation of or knowledge of the abusive relative.
 - The term actual and imminent threat refers to physical danger that is real, would occur within an immediate time frame, and 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 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.

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

BCHA Policy

BCHA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of BCHA's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, (Form HUD-5383, see Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

BCHA Policy

BCHA will provide all applicants with information about VAWA at the time of application for housing assistance, and as part of the written briefing packet. BCHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

BCHA Policy

Whenever BCHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, BCHA may decide not to send mail regarding VAWA protections

to the victim's unit if BCHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

In the event the victim gives BCHA permission to contact them about domestic violence, dating violence, sexual assault or stalking by e-mail, voicemail, or other approved method, such authorization shall be made in writing.

When discussing VAWA with the victim, BCHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

Notification to Owners and Managers [24 CFR 5.2005(a)(2)]

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

BCHA Policy

BCHA provides information on VAWA as part of the Landlord Workshop and VAWA information is part of the Housing Assistance Payment (HAP) Contract. (see exhibit 16-5)

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

1. A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
2. A federal, state, tribal, territorial, or local police report or court record, or an administrative record
3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the

incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [VAWA final rule].

BCHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

BCHA may, at its discretion, extend the deadline for ten business days. In determining whether to extend the deadline, BCHA will consider factors that may contribute to the victim’s inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim’s need to address health or safety issues. Any extension granted by BCHA will be in writing.

Once the victim provides documentation, BCHA will acknowledge receipt of the documentation within ten business days.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the PHA receives conflicting certification documents 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 PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3) The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

BCHA Policy

If presented with conflicting certification documents from members of the same household, BCHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documents, BCHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given thirty business calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) BCHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, BCHA will hold separate hearings for the applicants or tenants.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

BCHA Policy

If BCHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault or stalking, BCHA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the PHA 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 PHA (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.

BCHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, BCHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

**EXHIBIT 16-1 SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE
VIOLENCE AGAINST WOMEN ACT**

BROWARD COUNTY HOUSING AUTHORITY (BCHA)

NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT²

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.³

The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that Housing Choice Voucher, Shelter plus Care/Continuum of Care, Moderate Rehabilitation and HOME programs are 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 Housing Choice Voucher, Shelter plus Care, Moderate Rehabilitation and HOME programs, 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 Housing Choice Voucher, Shelter plus Care/Continuum of Care, Moderate Rehabilitation and HOME programs, 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 Housing Choice Voucher, Shelter plus Care/Continuum of Care, Moderate Rehabilitation and HOME programs solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

² Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

³ Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

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

The owner 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 BCHA chooses to remove the abuser or perpetrator, BCHA 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, BCHA 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, BCHA must follow Federal, State, and local eviction procedures. In order to divide a lease, the owner 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, BCHA 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, BCHA 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.

BCHA 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.

BCHA's emergency transfer plan provides further information on emergency transfers, and BCHA 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

BCHA 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 BCHA must be in writing, and BCHA must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. BCHA 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 BCHA as documentation. It is your choice which of the following to submit if BCHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by BCHA 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 BCHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, BCHA does not have to provide you with the protections contained in this notice.

If BCHA 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), BCHA 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, BCHA does not have to provide you with the protections contained in this notice.

Confidentiality

BCHA 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.

BCHA must not allow any individual administering assistance or other services on behalf of BCHA (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.

BCHA must not enter your information into any shared database or disclose your information to any other entity or individual. BCHA, however, may disclose the information provided if:

- You give written permission to BCHA to release the information on a time limited basis.
- BCHA 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 BCHA or your landlord to release the information.

VAWA does not limit BCHA'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, BCHA 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 BCHA 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 BCHA can demonstrate the above, BCHA 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 violation of these rights and seek additional assistance, if needed, by contacting or filing a complaint with Miami HUD Office, Brickell Plaza Federal Building, 909 SE 1st Ave, Miami FL 33131 (305) 536-5678.

For Additional Information

You may view a copy of HUD's final VAWA rule at www.FederalRegister.gov

Additionally, BCHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact Occupancy Specialist, Intake Specialist or Supervisor.

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 Women in Distress of Broward County 24 Hour Crisis Hotline (954) 761-1133 or for persons with hearing impairments, TTY/TDD (954) 527-5385.

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>.

For help regarding sexual assault, you may contact National Sexual Assault helpline 800.656.HOPE (4673); Broward Sheriff Office or local police.

Victims of stalking seeking help may contact Broward County Courthouse 201 SE 6th Street, Fort Lauderdale; Coast to Coast Legal Aid (954) 736-2400 or First Call for Help 2-1-1

Attachment: Certification form HUD-5382

<p style="text-align: center;">EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382</p>

CERTIFICATION OF	U.S. Department of Housing	OMB Approval No. 2577-0286
DOMESTIC VIOLENCE,	and Urban Development	Exp. 06/30/2017
DATING VIOLENCE,		
SEXUAL ASSAULT, OR STALKING,		
AND ALTERNATE DOCUMENTATION		

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider,

your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and 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 to you, and 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 VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's): _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. 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) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING
(HCV VERSION)**

Attachment: Certification form HUD-5382

Broward County Housing Authority

**EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

Housing Choice Voucher Program

Emergency Transfers

Broward County Housing Authority (BCHA) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),⁴ BCHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.⁵ The ability of BCHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether BCHA approves another subsidized dwelling (Housing Choice) unit selected by the tenant and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the Housing Choice Voucher, Shelter plus Care, Moderate Rehabilitation and HOME programs are in compliance with VAWA.

⁴Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

⁵Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Eligibility for Emergency Transfers

A tenant 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 if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant 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.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify BCHA's office and submit a written request for a transfer to relocate to another dwelling unit of their choice in another area, jurisdiction or location. Shelter plus Care programs will cooperate with the Broward County Continuum of Care and its Emergency Transfer plan as it relates to transfers outside of Broward County. BCHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under BCHA's program; OR
2. A statement that the tenant 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.

Confidentiality

BCHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives BCHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

BCHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. BCHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of the tenant selected (Housing Choice) unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different area or location of their choice for a (Housing Choice) unit. If a (Housing Choice) unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has selected and been transferred. BCHA may be unable to approve the tenant selected (Housing Choice) unit to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that (Housing Choice) unit.

If BCHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, BCHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, BCHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or Women in Distress of Broward County 24 Hour Crisis Hotline (954) 761-1133, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY) or 711.

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at: <https://ohl.rainn.org/online/>, [Broward Sheriff Office](#) or [local police](#).

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-> or may contact Broward County Courthouse 201 SE 6th St Fort Lauderdale FL; Coast to Coast Legal Aid (954) 736-2400 or First Call for Help 2-1-1.

**EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF
DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM
HUD-5383**

EMERGENCY TRANSFER **U.S. Department of Housing** OMB Approval No. 2577-0286
REQUEST FOR CERTAIN **and Urban Development** Exp. 06/30/2017
VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING

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.

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) _____

Exhibit 16-5 MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS

Broward County Housing Authority

NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS
UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

Purpose

Many of VAWA’s protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called “Notice”) is to explain your rights and obligations under VAWA, as an owner of housing assisted through [insert name of housing provider] HCV program. Each component of this Notice also provides citations to HUD’s applicable regulations.

Denial of Tenancy

Protections for applicants: Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

Eviction

Protections for HCV participants: Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant’s household or any guest or other person under the tenant’s control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

Limitations of VAWA protections:

- a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):
- 1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or
 - 2) The distribution or possession of property among members of a household in a case.

b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim 16-63 10/1/2018

of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and 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 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. (See 24 CFR 5.2003.)

ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:

2) Signed by the applicant or tenant; and

3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.16-64 10/1/2018

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

Moves

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

Lease Bifurcation

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant. 16-65 10/1/2018

Eviction, removal, termination of occupancy rights, or termination of assistance must be affected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

Evictions Due to “Actual and Imminent Threat” or Violations Not Premised on Abuse

The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and 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 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.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

Confidentiality

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim). 16-66 10/1/2018

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

Service Providers

Broward County Housing Authority has extensive relationships with local service providers. Broward County Housing Authority staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in Broward County Housing Authority Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

Definitions

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and 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 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.

Affiliated individual, with respect to an individual, means:

- (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- (2) Any individual, tenant, or lawful occupant living in the household of that individual.

Bifurcate means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that

certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

Dating violence means violence committed by a person:

- (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The length of the relationship;
 - (ii) The type of relationship; and 16-67
 - (iii) The frequency of interaction between the persons involved in the relationship.

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 grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) Fear for the person's individual safety or the safety of others; or
- (2) Suffer substantial emotional distress.

VAWA means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

Attached:

Legal services and the domestic violence resources for the Metro area

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Broward County Housing Authority VAWA Notice of Occupancy Rights

[https://www.victimsofcrime.org/our-programs/stalking-resource-center.](https://www.victimsofcrime.org/our-programs/stalking-resource-center)

LOCAL RESOURCES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

Domestic Violence Crisis Lines, Shelter, Information and Counseling

Women in Distress of Broward County Inc (954) 761-1133 Crisis line/ (954) 527-5385 (TTY/TDD)

Administration office (954) 760-9800

www.womenindistress.org; info@womenindistress.org

Provides a 24-hour crisis hotline, emergency shelter program, individual counseling, support groups and professional trainings which are aimed at educating the community on domestic violence. Confidential services are offered, free of charge, to victims of domestic violence.

National Domestic Violence Hotline 1-800-799-7233/ 1-800-787-3224 (TTY)

www.ndvh.org

Available 24/7/365 to talk confidentially with anyone experiencing domestic violence, seeking resources or information, or questioning unhealthy aspects of their relationship.

Florida Coalition Against Domestic Violence (FCADV) 1-800-500-1119

www.fcadv.org

Domestic Violence hotline. All calls and services are confidential.

FCADV works toward ending violence through public awareness, policy development, and support for Florida's domestic violence centers.

National Teen Dating Abuse Helpline 1-866-331-9474/1-866-331-8453 (TTY)/Text loveis to 22522

www.loveisrespect.org

Offer support, information and advocacy to young people who have questions or concerns about their dating relationships. Information and support are also provided to concerned friends and family members, teachers, counselors, service providers and members of law enforcement. Free and confidential phone, live chat and texting services are available 24/7/365.

The Lodge – Victim Response (305) 693-0232 Crisis line

www.thelodgemiami.org

A non-profit domestic violence center that offers refuge to survivors of domestic violence, rape, sexual assault, and their dependents. Serves through advocacy, safety planning, crisis intervention and overall support.

AVDA – A community of hope 1-800-355-8547 24-hour Crisis Hotline

www.avdaonline.org

Provide support, information, referrals and access to services through a 24-hour hotline. Residential programs for survivors and their pets. Transitional housing program to provide survivors with a longer-term residence up to two years. The Anne's STEPS economic empowerment program assists survivors in overcoming the impacts of financial abuse.

The Glass House (954) 938-0055 theglasshouseonline@yahoo.com

www.theglasshouseonline.net

Batterer's Intervention Program – A twenty-six-week program that provides the participants with information and practical tools to change those values, beliefs, and behaviors which provide the foundation for their use of violence.

3500 N State Road 7, Suite 31

Lauderdale Lakes FL 33319

Goodman Jewish Family Services of Broward County (954) 370-2140

www.jfsbroward.org

Provide short and long-term confidential assistance to help domestic abuse survivors and families transition and maintain a healthy and safe life through individual and group therapy, case management and guidance.

5890 S Pine Island Road, Suite 201

Davie FL 33328

Henderson Behavioral Health Inc (954) 463-0911

www.hendersonbh.org

Walk-in evaluation and treatment, psychiatric evaluations, medication management, crisis counseling and intervention, short-term psychotherapy, co-occurring disorders assessment, community linkage and referral, evaluation and arrangement for inpatient treatment, aftercare services, first episode psychosis program, 24-hour mobile crisis response teams, and 24-hour inpatient crisis stabilization unit.

4740 N State Road 7, Building C

Lauderdale Lakes FL 33319

Nova Southeastern University Family Violence Program (954) 262-5730

www.nova.edu/familyviolence

Helps victims of abuse with crisis intervention and victim advocacy management, and identifying and overcoming effects of abuse.

NSU Psychology Services Center

Maltz Building

3301 College Avenue

Fort Lauderdale FL 33314

Hours: Monday-Thursday 9:00 AM – 9:00 PM; Friday 9:00 AM-5:00PM; Saturday 9:00 AM-1:00 PM

Parent's Information & Resource Center (954) 785-8285

www.pirinc.org

Provides psychological evaluation, individual/family/group therapy; anger management and domestic violence training for Adults and Children, therapeutic parenting interventions, therapeutic after-school and summer camp programs.

817 North Dixie Highway

Pompano Beach FL 33060

Reflections Wellness Center LLC (954) 362-0104

www.rwcflorida.com

Provides adult psychosocial rehabilitation program, individual therapy, couples therapy, on-site psychiatry, batterer’s intervention and anger management.

6848 Stirling Road

Hollywood FL 33024

Hours: Monday – Thursday 8:30 AM-6:00PM, Friday 8:30 AM-2:30PM

Sunserve (954) 764-5150

www.sunserve.org; info@sunserve.org

A full range of out-patient mental health services including individual, couples, family, youth and group therapy. Peer counseling and support services which include support and/or prevention groups targeting the special needs of LGBTQ persons.

2312 Wilton Drive

Wilton Manors FL 33305

Legal Resources

Broward County Clerk of Courts (954) 831-5570

www.browardclerk.org

The Domestic Violence Intake unit provides assistance to those affected by domestic, repeat, sexual, dating, and stalking violence who in need of obtaining an injunction for protection. Injunctions are commonly referred to as “restraining orders”.

To obtain a Restraining Order, you may eFile your pleadings utilizing the ePortal filing system or appear in person at one of the Domestic Violence Service Locations, excluding Courthouse Holidays. The decision is made the same day and the Petitioner/Counsel is responsible for obtaining a copy of the ruling along with all associated documents.

Broward County Central Courthouse – Domestic Violence Division (954) 831-5570

201 SE 6th St, 2nd Floor, Room 02140

Fort Lauderdale FL 33301

Hours: Monday through Friday 8:30 am to 7:00 pm (All filings stop at 5:00 PM)

Afterhours contact Women in Distress of Broward County Crisis Line (954) 761-1133

West Regional Courthouse – (954) 831-5612

100 N Pine Island Road – Room 180

Plantation FL 33324

Hours: Monday through Friday 8:00 am to 4:30 PM (All filings stop at 2:00 PM)

All filings after 2:00 PM must be filed at the Broward County Central Courthouse or through the eFiling Portal

eFiling portal www.myflcourtagency.com

Broward County Sheriff Office (954) 321-4200

www.sheriff.org

2601 W Broward Blvd

Fort Lauderdale FL 33312

Coast to Coast Legal Aid of South Florida, Inc (954) 736-2400

www.coasttocoastlegalaid.org

The family law unit provides free and experienced representation in family law matters to victims of intimate partner violence including: victims of domestic violence, dating violence, sexual violence and stalking.

491 N State Road 7

Plantation FL 33317

Hours: Monday through Friday 9:00 AM to 5:00 PM

Americans for Immigrant Justice (305) 285-5900; info@aijustice.org

www.aijustice.org

AI Justice's Lucha Program attorneys represent immigrant victims of human trafficking, sexual assault, and domestic violence. Lucha helps resolve immigration status issues to ensure the survivor is not afraid to report abuse and can become self-sufficient without their abusive partner

Legal Aid Service of Broward County Inc. (954) 765-8950; Immigration Unit (954) 358-5647

www.browardlegalaid.org; LegalAidimmigration@legalaid.org

Provides free immigration advice and representation to immigrant victims of domestic violence, victims of trafficking in persons, and victims of other violent crimes in obtaining lawful immigration status.

491 N State Road 7

Plantation FL 33317

Hours: Monday – Friday 9:00 AM – 5:00 PM

Referrals

Broward 2-1-1 First Call for Help – dial 211 or (954) 537-0211

www.211-broward.org

Information and referrals, Crisis Suicide intervention, financial assistance, mental health services, substance abuse, children’s services, senior services, health care and teen space.

PROJECT-BASED VOUCHERS

INTRODUCTION

This Chapter sets forth BCHA policy for the PBV program as required by regulations. This Chapter does not eliminate any requirements of PBV regulations (24 CFR Part 983). This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine (9) parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to twenty-five percent (25%) of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

17-I.A. OVERVIEW [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 Contributions Contract (ACC) with HUD to take up to twenty percent (20%) 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)].

BCHA Policy

BCHA may operate a project-based voucher program using up to twenty percent (20%) of its budget authority for project-based assistance. Except as otherwise noted in this chapter or unless specifically prohibited by PBV program regulations, BCHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

See Exhibit 17-1 for information on projects to which the PHA has attached PBV assistance.

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 HAP Contract (Agreement) or a HAP contract, the PHA is not required to reduce the amount 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 [FR Notice 1/18/17].

Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21]

The PHA may project-base an additional ten percent (10%) of its units above the twenty percent (20%) program limit. The units may be distributed among one (1), all, or a combination of the categories as long as the total number of units does not exceed the ten percent (10%) cap. 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 twenty percent (20%) or less, as determined in the most recent American Community Survey Five (5) Year Estimates.

BCHA Policy

BCHA will not set aside units above the twenty percent (20%) program limit.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the twenty percent (20%) limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap.

BCHA Policy

BCHA will not project-base any units not subject to the twenty percent (20%) cap.

17-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.

BCHA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, BCHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

17-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.

17-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

17-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].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b)]

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 (2) methods.

- 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.
- 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.

Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21]

For certain public housing projects where the PHA has an ownership interest or control and will spend a minimum amount per unit on rehabilitation or construction, the PHA may select a project without following one (1) of the two (2) processes above.

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.

BCHA Policy

BCHA Request for Proposals for Rehabilitated and Newly Constructed Units

BCHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following newspapers and trade journals.

The Sun Sentinel, El Sentinel, Westside Gazette and website: www.bchafl.org

In addition, BCHA will post the RFP and proposal submission and rating and ranking procedures on its electronic website.

BCHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one (1) day per week for three (3) consecutive weeks. The advertisement will specify the number of units BCHA estimates that it will be able to assist under the funding BCHA is making available. Proposals will be due in BCHA's office by close of business thirty (30) calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to BCHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

BCHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers BCHA goal of deconcentrating poverty and expanding housing and economic opportunities;
- If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property;

BCHA Requests for Proposals for Existing Housing Units

BCHA will advertise its request for proposals (RFP) for existing housing in the following newspapers and trade journals.

The Sun Sentinel, Westside Gazette and website: ww.bchafl.org

In addition, BCHA will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site.

BCHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one (1) day per week for three (3) consecutive weeks. The advertisement will specify the number of units BCHA estimates that it will be able to assist under the funding BCHA is making available. Owner proposals will be accepted on a first (1st) come first (1st) served basis and will be evaluated using the following criteria:

Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

Extent to which the project furthers BCHA goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Extent to which units are occupied by families that are eligible to participate in the PBV program.

BCHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

BCHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

BCHA may periodically advertise that it is accepting proposals, in the following newspapers and trade journals:

The Sun Sentinel, Westside Gazette and website: www.bchafl.org

In addition to, or in place of advertising, BCHA may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first (1st) come first (1st) served basis. BCHA will evaluate each proposal on its merits using the following factors:

Extent to which the project furthers BCHA's goal of deconcentrating poverty and expanding housing and economic opportunities; and

Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

PHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of PHA-owned units the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

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

BCHA Policy

BCHA may submit a proposal for project-based housing that is owned or controlled by BCHA. If the proposal for BCHA-owned housing is selected, BCHA will use independent entity to review BCHA selection and to administer the PBV program. BCHA will obtain HUD approval of independent entity prior to selecting the proposal for BCHA-owned housing.

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

PHA Notice of Owner Selection [24 CFR 983.51(d)]

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

BCHA Policy

Within ten (10) business days of BCHA making the selection, BCHA will notify the selected owner in writing of the owner's selection for the PBV program. BCHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, BCHA will publish its notice for selection of PBV proposals for two (2) consecutive days in the same newspapers and trade journals BCHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. BCHA will also post the notice of owner selection on its electronic web site.

BCHA will make available to any interested party its rating and ranking sheets and documents that identify BCHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one (1) month after publication of the notice of owner selection. BCHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

BCHA will make these documents available for review at BCHA during normal business hours. The cost for reproduction of allowable documents will be as Florida Statutes 119.07 at a cost of \$.15 cents per one (1) sided copy, an additional \$.20 cents for each two (2) sided copy.

17-II.C. HOUSING TYPE [24 CFR 983.52]

The PHA may attach PBV assistance for units in existing housing or for 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 PHA selection, the units substantially comply with HQS. Units that were newly constructed or rehabilitated in violation of program requirements do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or

intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, the 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 to enter into a HAP contract 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. Finally, 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.

Subsidized Housing [24 CFR 983.54]

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10 and FR Notice 6/25/14]

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance 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.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines

The PHA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases noted above PHA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or a HUD-approved housing credit agency (HCA), has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the *Federal Register* notice published July 9, 2010.

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.

7-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56, FR Notice 1/18/17, and Notice PIH 2017-21]

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a 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 the greater of twenty-five (25) units or twenty-five percent (25%) of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

As of April 18, 2017, units are not counted against the twenty-five percent (25%) or twenty-five (25) units per project cap if:

- 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 twenty percent (20%) or less, as determined in the most recent American Community Survey Five (5) Year estimates, for these projects, the project cap is the greater of twenty-five (25) units or forty percent (40%) (instead of twenty-five percent (25%)) 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.

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. As of 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, although the family must be eligible to receive the supportive services. 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. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

BCHA Policy

Excepted units will be limited to units for elderly families.

Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, one-hundred percent (100%) of the units in these projects may receive PBV assistance.

BCHA Policy

BCHA does not have any PBV units that are subject to the per project cap exception.

Promoting Partially-Assisted Buildings [24 CFR 983.56(c)]

A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-projects cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-building cap of less than twenty-five percent (25%).

BCHA Policy:

BCHA will not provide assistance for excepted units. Beyond that, BCHA will not impose any further cap on the number of PBV units assisted per project.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV 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 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

BCHA Policy

It is BCHA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal BCHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of twenty percent (20%) or less.

However, BCHA will grant exceptions to the twenty percent (20%) standard where BCHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than twenty percent (20%), such as sites in:

A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

A census tract where there has been an overall decline in the poverty rate within the past five years; or

A census tract where there are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA determines that 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 that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

The PHA activities under the PBV program are subject to HUD environmental regulations in 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.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

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 agreement to enter into a HAP contract or a HAP contract with an owner, and the 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.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. 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

17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, 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.

17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

17-III.D. INSPECTING UNITS

Pre-selection Inspection [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.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions or if the unit passed an alternative inspection.

BCHA Policy

BCHA will not provide assistance in turnover units until the unit fully complies with HQS.

Annual Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least twenty percent (20%) of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

BCHA Policy

BCHA will inspect on a **bi**annual basis a random sample consisting of at least twenty percent (20%) of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than twenty percent (20%) of the annual sample of inspected contract units in a building fails the initial inspection, the PHA must reinspect one-hundred percent (100) of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 CFR 983.103(f)]

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. OVERVIEW [24 CFR 983.151]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(b)]. The PHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. 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.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

Content of the Agreement [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.

Execution of the Agreement [24 CFR 983.153, FR Notice 11/24/08]

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

BCHA Policy

BCHA will enter into the Agreement with the owner within ten business days of receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction, or rehabilitation work is started.

17-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)]

If an Agreement covers 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 PHA must monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 CFR 983.154(d) and (e)]

The Agreement 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.

17-IV.D. COMPLETION OF HOUSING

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155(b)]

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; 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 Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

BCHA Policy

BCHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. BCHA will specify any additional documentation requirements in the Agreement to enter into HAP contract.

PHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. OVERVIEW

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. 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 must be in the form required by HUD [24 CFR 983.202].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the twenty-five percent (25%) per project cap, which will be set-aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first twelve (12) months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204]

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has

inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

BCHA Policy

For existing housing, the HAP contract will be executed within ten business days of BCHA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within ten business days of BHCA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one (1) year and no more than twenty (20) years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one (1) year, nor more than twenty (20) years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

BCHA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to twenty (20) years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed twenty (20) years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed twenty (20) years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than twenty-four (24) months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

BCHA Policy

When determining whether or not to extend an expiring PBV contract, BCHA will consider several factors including, but not limited to:

The cost of extending the contract and the amount of available budget authority;

The condition of the contract units;

The owner's record of compliance with obligations under the HAP contract and lease(s);

Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

Whether the funding could be used more appropriately for tenant-based assistance.

Termination by PHA [24 CFR 983.205(c) and 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 these purposes, 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.

Termination by Owner [24 CFR 983.205(d)]

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 PHA. In this case, families living in the contract units must be offered tenant-based assistance.

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 forty percent (40%) of the family's adjusted monthly income.

Remedies for HQS Violations [24 CFR 983.207(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

BCHA Policy

BCHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

17-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(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.

Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]

The PHA and owner may 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 found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and 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.

BCHA Policy

BCHA will not add contract units to the HAP contract.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.206(c) and 983.302(e)]

The HAP contract year is the period of twelve (12) calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first (1st) day of the first (1st) calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first (1st) day of the first (1st) calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]

When the owner executes the HAP contract s/he 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; and
- 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.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

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.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

BCHA Policy

BCHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. BCHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

Vacancy Payments [24 CFR 983.352(b)]

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 (1st) calendar month after the move-out month for a period not exceeding two (2) full months following the move-out month. The amount of the vacancy payment 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).

BCHA Policy

BCHA will decide on a case-by-case basis if BCHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance.

For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

BCHA Policy

BCHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA's waiting list. Once the family's continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized

PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

BCHA Policy

BCHA will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance.

17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with “excepted units” for elderly families or receiving supportive services the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b) FR Notice 1/18/17].

BCHA Policy

BCHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). BCHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The PHA is prohibited from taking 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.

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner’s units, such rejection may not affect the family’s position on the tenant-based voucher waiting list.

Acceptance of Offer [24 CFR 983.252]

Family 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 the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family’s head or spouse is disabled, the PHA must 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 (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

BCHA Policy

The owner must notify BCHA in writing (mail, fax, or e-mail) within five business days of learning about any vacancy or expected vacancy.

BCHA will make every reasonable effort to refer families to the owner within ten business days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, 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 (according to the bedroom size) that have been vacant for this period.

BCHA Policy

If any contract units have been vacant for 120 days, BCHA will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for

this period. BCHA will provide the notice to the owner within 10 business days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of BCHA's notice.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

BCHA Policy

BCHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

BCHA Policy

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

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit.

When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;

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

PART VII: OCCUPANCY

17-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

BCHA Policy

BCHA will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- 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.

Initial Term and Lease Renewal [24 CFR 983.256(f)]

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
- The PHA terminates assistance for the family

Changes in the Lease [24 CFR 983.256(e)]

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 redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by BCHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258]

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.

BCHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify BCHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.258]

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

BCHA Policy

BCHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

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. BCHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [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.

BCHA Policy

BCHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within ten business days of BCHA's determination. BCHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier 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 of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

BCHA Policy

When BCHA offers a family another form of assistance that is not 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, BCHA will terminate the housing assistance payments at the expiration of this 30-day period.

BCHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [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 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 the family terminates the lease in accordance with these requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

BCHA Policy

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, BCHA will provide several options for continued assistance.

BCHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where BCHA has PBV units. BCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in BCHA's public housing program. Such a decision will be made by BCHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. BCHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, BCHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where BCHA has PBV units. BCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to BCHA's public housing program. BCHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking as part of the public housing ACOP in order to expedite this process.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262,]

As of April 17, 2018, 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].

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

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 building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family

residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted 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 qualified family.

BCHA Policy

BCHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

In all other cases, BCHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, BCHA will terminate the housing assistance payments at the expiration of this 30-day period.

BCHA 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.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

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

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units.

Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, 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 110 percent of the fair market rent or any approved exception payment standard;

For contract units that meet all of these 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.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) 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).

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- 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
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

BCHA Policy

BCHA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, BCHA will use the higher initial rent to owner amount.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the PHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment standard amount for use in the PBV program.

Likewise, the PHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

BCHA Policy

Upon written request by the owner, BCHA will consider using the FMR or utility allowances in effect during the thirty-day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. BCHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, BCHA may decide to use the FMR or utility allowances in effect during the thirty-day period before the start date of the HAP, or redetermination of rent, if BCHA determines it is necessary due to BCHA budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

BCHA Policy

BCHA will not apply SAFMRs to BCHA's PBV program.

Redetermination of Rent [24 CFR 983.302,]

The PHA must redetermine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases

in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

BCHA Policy

An owner's request for a rent increase must be submitted to BCHA sixty days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, 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.

Notice of Rent Change

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.

BCHA Policy

BCHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

PHA-Owned Units [24 CFR 983.301(g)]

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD.

The PHA must use the rent to owner established by the independent entity.

17-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to substitute a different contract unit in the same building; or project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include 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.

Comparability Analysis

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.

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

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.

17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 17-II.D).

Other Subsidy [24 CFR 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

17-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).

In order 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.

17-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 for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

BCHA Policy

If BCHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, BCHA will notify the landlord of the amount of housing assistance payment that the owner must repay. BCHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner.

The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- 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;
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

BCHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified BCHA of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within ten business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and BCHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by BCHA within ten business days of BCHA's request, no vacancy payments will be made.

17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or 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.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or 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.

BCHA Policy

BCHA will make utility reimbursements to the family as required.

17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

(Fill out one for each development)

Date: [Enter the date on which this form was completed]

DEVELOPMENT INFORMATION

Development Name: [Insert name of PBV development]

Address: [Insert full address of PBV development]

Owner Information: [Insert PBV development owner name and contact information. If development is PHA-owned, enter "PHA-owned."]

Property Management Company: [Insert property management company name and contact information, or enter "None"]

PHA-Owned: [Enter "Yes" or "No." If yes, enter name of independent entity]

Mixed Finance Development: [Enter "Yes" or "No." If yes, list other types of funding and units to which other funding applies.]

HAP CONTRACT

Effective Date of Contract: [Enter start date of HAP contract]

HOTMA Requirements: [If HAP contract was signed prior to April 18, 2017, enter “Pre-HOTMA.” If HAP contract was signed on or after April 18, 2017, enter “Post-HOTMA.”]

Term of HAP Contract: [Enter term from HAP contract]

Expiration Date of Contract: [Enter expiration date from HAP contract]

PBV

Units

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	Total
# of Units							
Initial Contract Rent	\$	\$	\$	\$	\$	\$	

Accessible Units and Features: [Identify which units are accessible and describe accessibility features or enter “None”]

Target Population: [Describe targeted population in accordance with HAP contract or enter “None”]

Excepted Units: [Identify excepted unit types below or enter “None”]

Supportive Services: [Enter “Yes, see Exhibit D of HAP Contract” or enter “No”]

Elderly Units: [Enter “Yes” or “No.” If yes, identify which units are elderly units.]

Disabled Units (only for HAP contracts executed prior to April 18, 2017) [Enter “Yes” or “No” If yes, identify which units are for persons with disabilities.]

Are units excepted because they are located in a low-poverty census tract area? [Enter “Yes” or “No”]

WAITING LIST AND SELECTION

Waiting List Type: [Enter “Site-based waiting list,” “Combined with HCV,” “Waiting list for entire PBV program,” or “Merged with another assisted housing program”]

Preferences: [Enter “Same as HCV; see Chapter 4” or describe preferences offered. If different from HCV, also note in Section 17.1.B of this policy.]

Preference Verification: [Enter “Same as HCV; see Chapter 7” or describe for each preference listed above. If different from HCV, note in Section 17.1.B of this policy.]

For the PBV program, is the income limit the same as the HCV program? (Note: In mixed

finance developments, other income limits may also apply.) [Enter “Same as HCV; see Chapter 3” or clearly describe. If different from HCV, note in Section 17.1.B of this policy.]

OCCUPANCY

Subsidy Standards: [Enter “Same as HCV; see Chapter 5” or describe. If different from HCV, note in Section 17.1.B of this policy]

Utilities: [Enter in accordance with HAP contract Exhibit C]

Vacancy Payments: [Enter in accordance with HAP contract Part 1, e, 2 and Section 17-V.F. within this chapter]

EXHIBIT 17-2: Special Provisions Applying to TPVs Awarded as Part of a Voluntary Conversion of Public Housing Units in Projects that Include RAD PBV Units
[24 CFR Part 972.200; Notice PIH 2019-05; Notice PIH 2019-23]

Under certain circumstances, HUD allows small PHAs to reposition a public housing project (or portion of a project) by voluntarily converting units to tenant-based housing choice voucher assistance. In order to preserve affordable housing for residents of the project, the PHA is given priority to receive replacement tenant protection vouchers (TPVs). As part of the voluntary conversion, the PHA has the option to continue to operate it as rental housing. If so, the PHA or subsequent owner must allow existing families to remain in their units using the TPV in the form of tenant-based assistance. In this situation, however, the PHA may choose to project-base these TPVs in the former public housing project. Families must still be provided with the option to remain in their unit using tenant-based assistance. In order for the PHA to project-base the assistance and include these units on the PBV HAP contract, the family must voluntarily consent in writing to PBV assistance following the requirements in Appendix A of Notice PIH 2019-05.

If the family fails to consent to PBV assistance and chooses to remain using tenant-based assistance, the family’s unit is excluded from the PBV HAP contract until the family moves out or consents to switching to PBV assistance. In general, all applicable program regulations and guidance for the standard PBV program apply to these units.

The PHA may also convert units in the same former public housing project to the PBV program under the rental assistance demonstration (RAD) program. The RAD statute authorizes HUD to waive certain statutory and regulatory provisions governing the standard PBV program and specify alternative requirements. In order to facilitate the uniform treatment of residents and units at the project, Notice PIH 2019-23 extended some of the alternative requirements to non- RAD PBV units in the converted project (i.e., the TPV units in the project). As such, while PBV TPV units in the converted project generally follow the requirements for the standard PBV program listed in this chapter, where HUD has specified alternative requirements for non-RAD PBV units in the project, PBV TPV units will instead follow the requirements outlined in Chapter 18 of this policy for the RAD PBV program.

RAD Requirements Applicable to Non-RAD units in the Project

<u>Alternative Requirement under RAD as Listed in Notice PIH 2019-23</u>	<u>Standard PBV Policy That Does Not Apply</u>	<u>Applicable Policy in Chapter 18</u>
<u>1.6.A.4. Site Selection – Compliance with PBV Goals</u>	<u>17-II.G. SITE SELECTION STANDARDS applies with the exception of deconcentration of poverty and expanding housing and economic opportunity requirements.</u>	<u>18-II.F. SITE SELECTION STANDARDS</u>
<u>1.6.C.1. No Rescreening of Tenants upon Conversion</u>	<u>Policies contained in Chapter 3 relating to eligibility do not apply to existing tenants who receive TPVs.</u>	<u>18-VII.C. UTILITY ALLOWANCES</u>
<u>1.6.C.2. Right to Return</u>	<u>Alternative requirement under RAD. No corresponding policy in Chapter 17.</u>	<u>18-I.D. RELOCATION REQUIREMENTS</u>
<u>1.6.C.3. Phase-in of Tenant Rent Increases</u>	<u>Alternative requirements under RAD. No corresponding policy in Chapter 17.</u>	<u>18-VIII.D. PHASE-IN OF TENANT RENT INCREASES</u>
<u>1.6.C.4. Family Self Sufficiency (FSS) and Resident Opportunities and Self-Sufficiency Service Coordinator (ROSS-SC) Programs</u>	<u>Not covered in administrative plan.</u>	<u>18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS</u>
<u>1.6.C.5. Resident Participation and Funding</u>	<u>Alternative requirement under RAD. No corresponding policy in Chapter 17.</u>	<u>18-VI.D. RESIDENT PARTICIPATION AND FUNDING</u>
<u>1.6.C.6. Resident Procedural Rights</u>	<u>Policies related to hearings in Chapter 16 apply, with added procedural rights and notice requirements as outlined in Chapter 18.</u>	<u>18-VI.H. RESIDENTS’ PROCEDURAL RIGHTS</u>

<u>1.6.C.7. Earned Income Disregard (EID)</u>	<u>Alternative requirements under RAD for in-place residents.</u> <u>New admissions follow policies in Chapter 6.</u>	<u>18-VI.G. EARNED INCOME DISALLOWANCE</u>
<u>1.6.C.8. Jobs Plus</u>	<u>Not covered in administrative plan.</u>	<u>No corresponding policy.</u>
<u>1.6.C.9. When Total Tenant Payment Exceeds Gross Rent</u>	<u>Alternative Requirements under RAD for in-place residents.</u> <u>New admissions follow policies in 17-VII.B. LEASE, Continuation of Housing Assistance Payments</u>	<u>18-VI.B. LEASE, Continuation of Housing Assistance Payments</u>
<u>1.6.C.10. Under-Occupied Unit</u>	<u>Alternative requirements under RAD for in-place residents.</u> <u>New admissions follow 17-VII.C. MOVES, Overcrowded, Under-Occupied, and Accessible Units</u>	<u>18-VI.E. MOVES, Overcrowded, Under-Occupied, and Accessible Units</u>
<u>1.6.D.4. Establishment of Waiting List</u>	<u>Alternative requirements under RAD for initial establishment of the waiting list.</u> <u>Once waiting list is established, follow 17-VI.D. SELECTION FROM THE WAITING LIST</u>	<u>18-V.D. ORGANIZATION OF THE WAITING LIST</u>
<u>1.6.D.10. Initial Certifications and Tenant Rent Calculations</u>	<u>Alternative requirements under RAD for in-place residents. No corresponding policy in Chapter 17.</u>	<u>18-VIII.C. TENANT RENT TO OWNER, Initial Certifications</u>

Note, while Notice PIH 2019-05 states that the PHA must screen families for eligibility for a tenant protection voucher and that families must be below the low-income limit (80 percent of AMI), Notice PIH 2019-23 waives these requirements for residents in projects that include RAD PBV units.

Chapter 18

SPECIAL PROGRAMS

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to Special Programs managed by BCHA.

Part I: Family Unification. The purpose of the Family Unification Program (FUP) is to promote family unification by providing a Housing Choice Voucher to families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in/out of home care; or the delay in the discharge of the child, or children, to the family from out of home care. Youths at least eighteen years old and not more than twenty-four years old (have not reached their twenty-fifth birthday) who left foster care at age sixteen or older and who do not have adequate housing, are also eligible to receive housing assistance under the FUP. As required by statute, a voucher under this program that is used to provide housing assistance to a youth is time limited to a period of a maximum of thirty-six months. There is no statutory limitation on the time a family may receive housing assistance under this program. BCHA works in conjunction with the Florida Department of Children and Families and ChildNet, Inc.

Part II: Family Self Sufficiency Program. The Family Self Sufficiency (FSS) program helps families on the Housing Choice Voucher program to increase their earnings and build financial capability and assets. It is a voluntary program open to active Housing Choice Voucher participants. Families work with an FSS Case Manager to develop, plan and achieve goals toward self-sufficiency.

Part III: Continuum of Care Permanent Supportive Housing. The Continuum of Care (CoC) program is authorized by the title IV of the Stewart B. McKinney Homeless Assistance Act. The program is designed to link rental assistance and supportive services for hard-to-serve homeless persons with disabilities. BCHA partners with local supportive service agencies to provide initial homelessness and disability verification, housing search services, and, to provide ongoing services to program participants.

Part IV: Moderate Rehabilitation Program. The purpose of the Moderate Rehabilitation Program is to upgrade substandard rental housing and to provide rental subsidies for low-income Families.

Part V: Mainstream Disability 5-Year (MS5) Program. The purpose of the Mainstream Program is to assist non-elderly families with disabilities by providing rental assistance.

Part VI: Non-Elderly Disabled (Ned) Voucher/Mainstream 1-Year. The Non-Elderly Disabled Voucher (Mainstream 1-Year) program provides Housing Choice Voucher assistance to very low income, non-elderly disabled (NED) families.

Part VII: Veterans Administration Supportive Housing (HUD-VASH). The HUD-VASH program combines HUD Housing Choice Voucher (HCV) rental assistance for homeless veterans with case

management and clinical services provided by the Department of Veteran Affairs (VA) at its medical centers.

Although HUD-VASH vouchers are administered in accordance with the HCV regulations at 24 CFR part 982, the 2008 Appropriations Act authorized the HUD Secretary to waive, or specify alternative requirements for any provision of any statute or regulation deemed necessary for effective delivery and administration of the HUD-VASH program.

Part VIII: Emergency Housing Vouchers. The Emergency Housing Voucher (EHV) program was created through the American Rescue Plan Act of 2021 to assist individuals and families who are experiencing homelessness; at risk of homelessness; fleeing or attempting to flee, domestic violence, dating violence sexual assault, stalking, or human trafficking; or who were recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

Part IX: Foster Youth to Independence Initiative. The Foster Youth to Independence (FYI) initiative provides Housing Choice Vouchers (HCV) to eligible youth. The FYI voucher may only be used to provide housing assistance to eligible youth for a maximum of thirty-six (36) months. If no subsidy (HAP) is being paid on behalf of the youth, that period of time does not count under the thirty-six (36) month limitation.

PART I: FAMILY UNIFICATION PROGRAM (FUP)

INTRODUCTION

The purpose of the Family Unification Program (FUP) is to promote family unification by providing a Housing Choice Voucher to families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in/out of home care; or the delay in the discharge of the child, or children, to the family from out of home care. Youths at least eighteen years old and not more than twenty-four years old who left foster care at age sixteen or older, or will leave foster care within ninety days, in accordance with a transition plan described in section 475 (5)(H) of the Social Security Act, and is homeless or is at risk of becoming homeless. As required by statute, a voucher under this program that is used to provide housing assistance to a youth is time limited to a period of a maximum of thirty-six (36) months. BCHA works in conjunction with the Florida Department of Children and Families (DCF) and ChildNet, Inc.

Households that were referred to FUP as a family must be recorded as "FUPF" on line 2N of the HUD-50058. Youth Aging out of Foster Care must be recorded as "FUPY" on line 2N of the HUD-50058.

18-I.A. FAIR HOUSING AND EQUAL OPPORTUNITY

BCHA will follow procedures outlined in Chapter 2 (Fair Housing and Equal Opportunity)

18-I.B. APPLICATION WAITING LIST

BCHA will accept families and youths certified by Child Net as eligible for the FUP. Upon receipt of the Child Net list of eligible families and youths currently in the Child Net caseload, BCHA will compare the names with those of families and youths currently on BCHA's HCV waiting list. Any family or youth on BCHA's HCV waiting list that matches with Child Net's list must be assisted in order of their position on the waiting list in accordance with BCHA admission policies. Any family or youth certified by Child Net as eligible and not on the HCV waiting list will be added to the waiting list. If the HCV waiting list is closed, BCHA will reopen the waiting list to accept a FUP applicant family or youth. BCHA will maintain its waiting list for the FUP by the date and time they applied.

18-I.C. ELIGIBILITY CRITERIA FOR ADMISSION

FUP eligibility is based on a family meeting the following criteria:

- a) A family that Child Net has certified as a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, to the family from out of home care, and that BCHA has determined is eligible for a voucher.

- b.) A youth that Child Net has certified to be at least eighteen years old and not more than twenty-four (24) years old who left foster care at age (16) sixteen or older and who does not have adequate housing; and that BCHA has determined is eligible for a voucher.
- c.) The FUP youth will not be eligible for the voucher if they will be twenty-five (25) on the effective date of the Housing Assistance Payment (HAP) Contract.

Families and youth currently on the regular Housing Choice Voucher Program are not eligible to be transferred to the FUP voucher as their housing need has already been met by the existing HCV program. (Questions and Answers Family Unification Program 10/17/2019)

Ineligible income sources

Extended Foster Care (EFC)

Youth participating in the title IV-E foster care program are entitled to receive or have paid on their behalf a title IV-E foster care maintenance payment to cover the cost of food, clothing, and shelter among other costs. Supplementing title IV-E foster care with the housing assistance is not permitted under this resource. (FYI Questions and Answers 10/20/2020)

Postsecondary Education Service and Support (PESS)

PESS is a state program for eligible foster youth that may receive monthly financial payments that may include Education and Training Voucher (ETV) funding. The financial award is to secure housing, utilities, and assist with the cost of living while attending a Florida Bright Futures eligible postsecondary educational institution. Supplementing these funds with housing assistance is not permitted under this resource.

Time Limitations

The FUP-Youth Aging Out of Foster Care (FUPY) Voucher may only provide housing assistance to eligible youth for a maximum of thirty-six (36) months. If no subsidy (HAP) is being paid on behalf of the youth, such as when searching for a unit, that period does not count toward the thirty-six (36) month limitation.

Youth will sign a confirmation that they understand the Housing Assistance Payments are limited to a maximum of thirty-six (36) months.

If the youth is otherwise program eligible but left the program before completing the thirty-six months of assistance, they may be re-admitted to the program. The re-admitted youth would only be eligible for the time remaining from the last admission. For example, if the youth left after 12-months on the program, the youth would only be eligible for twenty-four (24) months at re-admission for a total of 36-months of assistance.

For youth that first leased a unit where the effective date of the HAP contract is after December 27, 2020, an extension of assistance is available as discussed in N. Fostering Stable Housing Opportunities (FSHO) Amendments.

18-I.D. SELECTION OF FAMILIES

Selection for the FUP will be done based on the date and time of the FUP application submission (not the date and time of the HCV application). Any family or youth on BCHA’s waiting list that matches with Child Net’s list must be assisted in order of their position on the waiting list in accordance with BCHA admission policies.

18-I.E. REMOVAL FROM WAITING LIST AND PURGING

BCHA will utilize procedures outlined in Chapter 4 (Applications, Waiting List and Tenant Selection).

18-I.F. BRIEFING OF FAMILIES

BCHA will utilize the procedures outlined in Chapter 5 (Briefing and Voucher Issuance).

In addition to the procedures outlined in Chapter 5, the following items will be included in the FUPY briefing:

- FSHO requirements for receiving an extension of assistance
- Instructions on how to apply for the FSS waiting list
- A list of supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services

18-I.G. INCOME AND SUBSIDY DETERMINATION

BCHA will utilize procedures outlined in Chapter 6 (Income and subsidy determination).

18-I.H. VERIFICATION

BCHA will utilize procedures outlined in Chapter 7 (Verification).

18-I.I. REEXAMINATIONS AND INTERIM CHANGES

BCHA will utilize the procedures as outlined in Chapter 11 (Reexamination).

18-I.J. HOUSING QUALITY STANDARDS

BCHA will utilize the procedures as outlined in Chapter 8 (Housing Quality Standards and Rent Reasonableness Determination).

18-I.K. LEASING

BCHA will utilize the procedures as outlined in Chapter 9 (General Leasing Policies).

18-I.L. MOVES AND PORTABILITY

Moves within BCHA jurisdiction

BCHA will utilize the procedures outlined in Chapter 10 (Moving with continued assistance).

Portability

The FUP Voucher is handled the same way as a regular HCV, so BCHA may not restrict or deny portability for a FUP participant for reasons other than those specified in HCV

program regulations. BCHA will follow procedures as outlined in Chapter 10 (Moving with Continued Assistance and Portability).

The FUP participant does not have to move to a jurisdiction that administers Family Unification Program. The referring community would no longer have an obligation to offer supportive services in the new jurisdiction.

The Receiving 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, that youth becomes a regular HCV participant. In such case, the FUP voucher would be made available to the next eligible family or youth.

If the Receiving PHA does not absorb the family and bills the initial PHA, both PHAs must work together to initiate termination of assistance upon the expiration of the thirty-six (36) month limit for Youths Aging Out of Foster care. Further, the Receiving PHA must retain code FUPF or FUPY as appropriate in line 2N of the HUD-50058.

18-I.M. FAMILY UNIFICATION PROGRAM AND FAMILY SELF SUFFICIENCY DEMONSTRATION (PIH 2016-01)

The Family Unification Program and Family Self Sufficiency demonstration was created after it was determined through a HUD study that a major barrier to youth greater participation in the Family Unification Program is the time limit on the rental subsidy. The limited time causes high turnover rates, demanding greater staff resources and creating greater administrative costs. The time restriction also does not align with standard academic term for youth enrolled in an education program. Finally, youth require additional time to become self-sufficient and transition to independent living and adulthood. (PIH 2016-01)

The goal of the demonstration is to assess whether the combination of FUP and FSS, along with extension of time limits, has been an effective approach to improving housing stability and self-sufficiency outcomes for youth aging out of foster care.

Through this demonstration the youth have the opportunity to receive Family Self-Sufficiency case management services along with an increased housing assistance time limit.

FUP Youth (FUPY) who agree to sign an FSS Contract of Participation (Form 52650) will maintain their housing assistance for a period not exceeding the length of the FSS Contract of Participation. In most cases, this limit will be no more than five (5) years; however, if the FSS Contract of Participation is extended, in accordance with 24 CFR 943.303(d), the FUP youth voucher can be extended for the entire length of the FSS Contract of Participation.

Families cannot be required to participate in the FSS program as a condition of receipt of assistance under the HCV program, including receipt of a FUP voucher. However, only FUP youth that sign an FSS Contract of Participation may benefit from the extension of

the time limit for voucher assistance. The FUPY participant who signs the FSS contract of participation is afforded the full length of the FSS contract period regardless of the amount of time left in the thirty-six (36) month time limit providing the time limit has not yet expired prior to enrollment.

At the time of Voucher Briefing, the FUP Youth will be notified of the availability of the FSS-FUPY Demonstration. Those that are interested in the program will complete an Interest Form to be placed on the FSS waiting list. The family signs a Confirmation of Briefing form which lists that FSS-FUPY demonstration was explained to them.

In accordance with the FSS Action Plan, fifteen (15) FSS program openings will be allotted for use by FUP Youth. In addition, FUP Youth will be issued a Priority 1 status on the FSS Waiting List.

FUP Youth, who were already on FUP at the time the demonstration began have until the conclusion of their thirty-six (36) month time limit to enroll.

Should the FUP Youth participating in this demonstration fail to comply with the terms and conditions of the FSS Contract of Participation without good cause and is terminated from the FSS program, the FUP youth is no longer considered a participant in the demonstration. With FSS termination, the FUP youth is subject to the statutory time of thirty-six (36) months of assistance, beginning from the time the first HAP contract is signed. If the FUP Youth has been assisted for more than thirty-six (36) months, the assistance will be terminated.

BCHA will follow procedures as outlined in the Family Self Sufficiency Action Plan and Chapter 18, Family Self Sufficiency.

18-I.N. FOSTERING STABLE HOUSING OPPORTUNITIES (FSHO) AMENDMENTS

BCHA will utilize the procedure as outlined in Chapter 12 (Denial or Termination of Assistance).

The Fostering Stable Housing Opportunities (FSHO) amendments require all FUPY participants who entered into their first lease after December 27, 2020 to be notified of the opportunity to receive up to two 12-month extensions and the requirements they must meet to receive such an extension.

FSHO does not restart or otherwise impact the initial 36-month time limit but it does make FUPY/FYI youth eligible for an extension of assistance of up to 24 months. The maximum time permitted under FSHO is 60- months (initial 36 months plus extension of 24 months).

Eligibility Criteria for 24-month extension beyond the initial 36-month limit under FSHO:

- An eligible youth who is participating in the Family Self-Sufficiency (FSS) Program

- Youth must sign the FSS Contract of Participation during the initial 36-month time limit and comply with the requirements of the FSS program.
- If the FSS program is unable to offer the FUPY/FYI an FSS slot during the first 36-months, the youth is considered “unable to enroll” and may have the voucher extended by meeting the education, workforce development, or employment requirements discussed below.
- If an FSS slot becomes available between the 36-48 month mark, BCHA must offer the slot to a FUPY youth who had their voucher extended due to other criteria even if the youth declined the FSS slot because they met one of the statutory exceptions. If the youth accepts the slot, FSS staff must work with the youth to develop a Contract of Participation and Individual Training and Service Plan that can be accomplished within the time period left of the FUPY/FYI voucher.
- BCHA may offer FUPY/FYI youth an FSS slot during the 48-60 month but is not required to as the youth has already received the second and final extension under FSHO
- BCHA may provide the FUPY/FYI youth with a preference on the FSS waitlist.
 - BCHA Policy
 - BCHA will not offer an FUPY youth an FSS slot during the 48-60-month extension of housing assistance
 - The Family Self-Sufficiency Action Plan does not currently have a preference for non FUP-FSS Youth demonstration youth
- If the youth is unable to enroll in FSS during the first 36-months of assistance, the youth may be able to receive an extension of FUPY assistance for up to two successive 12-month periods beyond the initial 36-months provided that the youth has:
 - Education: Engaged in at least one education, workforce development, or employment activity below for not less than 9 months of the preceding 12-months. Youth may combine the time between eligible activities (example, completed credentialing for 3 months and obtained work for 6 months):
 - Education requirements:
 - The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or equivalent
 - The youth was enrolled in an “institution of higher education”, as defined in the Higher Education Act of 1965 or an institution that meets the definition of a “proprietary institution of higher education: or a “post-secondary vocational institution: under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965.

- Workforce Development: Youth was participating in a career pathway, as defined in section 3 of the Workforce Innovation and Opportunity Act (29 USC 3102)
- Employment: The youth was employed

Extension of Assistance Exceptions

A FUPY youth will be entitled to receive an extension of their FUPY assistance for up to 24 months beyond the 36-month time limit if they certify that they meet one of the exceptions below:

- The FUPY youth is a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person.
 - A youth may submit this certification even if the child under 6 years old only resides in the household part-time such as with a shared custody arrangement or does not live in the household but the youth is responsible for their care.

BCHA Policy:

- The youth will complete the Extension of Assistance form; and
- If the child under the age of 6 is not part of the household, the youth will provide a copy of the shared custody arrangement
 - A youth may submit this certification even if the incapacitated of child under the age of six person does not live in the household so long as they are responsible for the care of the person.

BCHA Policy:

- The youth will complete the Extension of Assistance form; and
- The youth will supply the name and address of the incapacitated person, court documentation confirming incapacitation and the role the youth plays in the person's care
- The FUPY youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

BCHA Policy:

- The youth will complete the Extension of Assistance form; and
- will provide a letter or other documentation from the drug addiction or alcohol treatment and rehabilitation program confirming eligibility under this exception
- The FUPY youth is a person who is incapable of complying with the requirement to participate in the FSS program or unable to participate in education, workforce development or employment activities due to a documented medical condition. HUD

encourages Housing Authorities to apply this exception in a manner that provides extensions of FUPY assistance to the broadest population possible consistent with the requirements.

BCHA Policy:

- The youth will complete the Extension of Assistance form; and
- will provide documentation from a State of Florida physician confirming the youth has a medical condition which results in the youth being incapable of participation in these activities.

An FUPY youth that meets one of these exceptions must still be offered an opportunity to enroll in FSS (if it is available to them) and receive any supportive services available to FUPY youth. The FUPY youth may choose to participate in education, workforce development, or employment activities even if they meet one of these statutory exceptions.

BCHA must verify eligibility for the extension annually at the end of the 36 and 48-month period. As BCHA begins the annual reexamination process 120 days in advance of the lease renewal, the FUPY youth will be notified prior to the 120-day period, in writing, to notify them of the available extensions and process for requesting such extension. Eligibility must be established prior to beginning the annual reexamination process.

Due to timing of when BCHA verifies compliance and conducts the annual reexamination, those youth who are applying for an extension based on education, employment and workforce development may be able to demonstrate that they will meet the 9-month requirement as of the end of the 36- or 48- month time period. In such case they are considered having met the requirement.

BCHA Policy:

- If the youth is on the Family Self-Sufficiency program, confirmation will be made that the youth is compliant with the FSS program requirements and has not been terminated from FSS.
 - BCHA will accept an e-mail from the FSS Manager as confirmation.
- Education, Workforce Development, or employment
 - BCHA will accept a transcript, letter from the registrar, letter from Workforce Development program, employment verification letters, forms or other records that may document enrollment periods and/or participation
- Exceptions
 - BCHA will utilize verifications as listed under Extension of Assistance Exceptions

The youth does not have to meet the same statutory condition when they reach the end of the 48-month time period. They may demonstrate they meet another condition

in order to receive an extension of assistance. For example, at the 36-month eligibility the youth was responsible for the care of child under 6. At 48-months, the child is 6 years old but the youth documents eligibility under a different condition.

If the youth does not meet any statutory conditions and the youth is subject to the 36-month time limit or the time limit of any extension the youth has already received, the FUPY voucher must be terminated once the youth has reached the 36-month time limit. Such termination includes the right to request an informal hearing using procedures outlined in Chapter 16 of the Administrative plan.

BCHA Policy:

Participants will be notified of this opportunity at the following times:

- All new FUPY participants will be notified during the voucher briefing of this opportunity.
- FUPY participants will be reminded of the opportunity after completing 24 months of housing subsidy.
- FUPY participants will be provided with the certification form and verification requirements prior to the annual reexamination that occurs prior to the 36-month and 48-month expiration. If the participant wishes to apply for an extension, they must return the certification and verification within 15 business days.

Definitions:

Incapacitated Person – Florida Statutes section 744.102 (12) defines incapacitated as a judicial determination that a person lacks capacity to manage at least some of the person’s property or to meet at least some of the person’s essential health and safety requirements.

Recognized Post-Secondary credential – Defined under the Workforce Innovation and Opportunity Act (WIOA) as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State or Federal Government, an associate or baccalaureate degree.

Secondary school diploma or its equivalent – Under WIOA, a secondary school diploma or alternate diploma recognized by the State and is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA) and amended by Every Student Succeeds Act (ESSA). This would include a high school diploma or General Equivalency Diploma (GED).

Unable to enroll – BCHA has an FSS program but the youth has not been offered an FSS slot during the 1st 36-month of receiving FUPY/FYI assistance

18-I.O. DENIAL OR TERMINATION OF ASSISTANCE

BCHA will utilize the procedure as outlined in Chapter 12 (Denial or Termination of

Assistance).

18-I.P. OWNERS

BCHA will utilize the procedures outlined in Chapter 13 (Owners)

18-I.Q. PROGRAM INTEGRITY

BCHA will utilize the procedures outlined in Chapter 14 (Program Integrity).

18-I.R. GRIEVANCE PROCEDURES

BCHA will utilize the Complaints and Grievance Procedures outlined in Chapter 16 (Program Administration).

PART II: FAMILY SELF SUFFICIENCY PROGRAM (FSS)

INTRODUCTION

The Family Self Sufficiency (FSS) program helps families on the Housing Choice Voucher program to increase their earnings and build financial capability and assets. The program features:

- Case Management or coaching to help participants access services they need to overcome barriers to employment, strengthen financial capability, and address other challenges holding them back from achieving their goals.
- A financial incentive for participants to increase their earnings in the form of an escrow savings account that increases as participant's earnings increase.

Participation in the FSS program is voluntary. HCV participants that choose to enroll in FSS work with a case manager who helps them identify goals and the steps to achieve those goals. The individual goals and steps are recorded on the Individual Training and Services Plan (ITSP). The ITSP becomes part of the FSS Contract of Participation (COP) signed by the agency and the head of each participating household. The COP records the commitment of the family and the FSS program to work together to achieve the identified goals. The Head of Household must participate in the program.

All FSS participants are required to include the following goals on their ITSP, but may identify additional goals:

- All household members must be independent of welfare case assistance from federal or state welfare programs for at least twelve (12) months of their participation in the program. The requirement applies solely to ongoing cash assistance. Food stamps, Medicaid, or short-term non-recurring cash payments are not included.
- The Head of Household must seek and maintain suitable employment.

The Contract of Participation is for a term of five (5) years, however, it may be extended for good cause for up to two (2) one (1) year extensions – maximum of seven (7) years.

The FSS family may access their escrowed savings:

- When they graduate from the program by achieving their ITSP goals, at which time they are eligible to withdraw the full amount of escrow savings, which they may use for any purpose;
- At the discretion of the FSS program, providing they have achieved one (1) or more interim goals. FSS funds can be released early only if the funds will be used for a purpose consistent with the participant's ITSP.

The FSS Program has case managers who provide service coordination to participants throughout the course of their participation in the program. The case managers help participants stay on track toward achieving their goals and access resources in the community to support their progress.

BCHA Policy:

BCHA will utilize procedures outlined in the Family Self Sufficiency Action Plan to administer the program.

BCHA will utilize procedures outlined in Chapter 2 (Fair Housing and Equal Opportunity).

BCHA will utilize procedures outlined in Chapter 12 (Termination of Assistance and Tenancy) and the FSS Action plan when Denying or Terminating FSS participation.

BCHA will follow Grievance Procedures as outlined in Chapter 16 (Program Administration).

As participants in the Family Unification – Family Self Sufficiency Demonstration, BCHA will follow FSS procedures as outlined in the FSS Action Plan. Fifteen (15) FSS participation openings are allotted to this demonstration. Eligible FUP Youth will be issued priority 1 status on the FSS waiting list.

PART III: CONTINUUM OF CARE PERMANENT SUPPORTIVE HOUSING PROGRAM (S+C)

INTRODUCTION

PURPOSE AND SCOPE (24 CFR 578.1)

The Continuum of Care (COC) Program, formerly known as the Shelter Plus Care program (S+C), is authorized by the title IV of the Stewart B. McKinney Homeless Assistance Act and is regulated under 24 CFR Part 578 – Continuum of Care Program.

The program is designed to:

- (1) Promote communitywide commitment to the goal of ending homelessness;
- (2) Provide funding for efforts by nonprofit providers, States, and local governments to quickly rehouse homeless individuals (including unaccompanied youth) and families, while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness;
- (3) Promote access to and effective utilization of mainstream programs by homeless individuals and families; and
- (4) Optimize self-sufficiency among individuals and families experiencing homelessness.

BCHA administers the following allocations, for persons experiencing chronic homelessness, under the Continuum of Care (HUD):

- S+C 100 Units
- S+C 88 Units
- S+C 74 Units
- S+C 29 Units
- S+C 25 Units
- S+C 18 Units
- S+C 16 Units
- SHIELD

In addition, Broward County has funded a program under Broward County General Funds which apply rules under 24 CFR 578 unless otherwise noted:

- BCHA 18 Unit – This program is the result of the Broward County Housing Options Solutions and Supports Division (HOSS-D) (formerly Homeless Initiative Partnership) combination of the S+C 18 Unit Expansion A and B programs effective October 1, 2021

The Broward County “A Way Home” Homeless Continuum of Care (COC) adheres to the Housing First Model, which emphasizes a priority to house individuals and families experiencing homelessness and then offer voluntary services. Housing First must be incorporated into service delivery.

GOALS

The goals of the Continuum of Care Program are designed to achieve the following results:

- A rapid exit from homelessness – As a Permanent Supportive Housing (PSH) Provider, a streamlined intake process ensures chronically homeless individual and families (coming directly from the streets) are prioritized.
- Minimal barriers to program entry:
Providers must remove barriers to entry into the program to ensure access for those with the most severe needs and longest histories of homelessness. However, homeless providers are not required to serve/house persons who pose a danger to themselves, staff, or other residents while abiding by the Equal Access Rule.
- Voluntary Supportive Services – All supportive services are on a voluntary basis. Refusal to participate in supportive services is not grounds for termination. Applicants will work with supportive services during the intake process to ensure the final referral packet, verification of disability, verification of homelessness and housing intake is completed. Housing Navigation services through HOSS-D are available via referral.

RENTAL ASSISTANCE (24 CFR 578.51)

Continuum of Care funds may be used for rental assistance for homeless individuals and families. Rental assistance cannot be provided to a program participant who is already receiving rental assistance or living in a housing unit receiving rental assistance or operating assistance through other federal, State, or local sources.

The rental assistance may be short-term, up to 3 months of rent; medium-term, for 3 to 24 months of rent; or long-term, for longer than 24 months of rent and must be administered in accordance with the policies and procedures established by the Continuum as set forth in §578.7(a)(9) and 578.51

The rental assistance may be tenant-based, project-based, or sponsor-based, and may be for transitional or permanent housing.

Policy:

BCHA will supply long-term rental assistance to homeless individuals and families in accordance with Agreements with the Continuum of Care and HUD regulation in the form of Tenant-Based Permanent Housing.

SUPPORTIVE SERVICES

To the extent practicable, each project must provide supportive services for residents of the project and homeless persons using the project, which may be designed by the Housing Authority or participants. An ongoing assessment of the supportive services needed by the residents of the project, the availability of such services, and the coordination of services needed to ensure long-term housing stability must be conducted.

Policy:

BCHA has partnered with multiple supportive services agencies via a Memorandum of Understanding. These providers assist in the intake process, including completion of homeless and disability verifications. Although ongoing supportive services are not required under these programs, continued participation is encouraged for assisted families to receive assistance with locating and maintaining a rental unit successfully. An annual assessment of services is a requirement under the programs,

The partnering agency will provide confirmation that an annual assessment has been conducted.

Participants who no longer participate in supportive services will be offered linkage with a partnering agency at least once per year, or as situations arise where a supportive service provider may be of assistance. These participants will have their annual assessment completed by BCHA staff members.

Supportive services will be documented as in-kind contribution or match.

SUPPORTIVE SERVICE AGREEMENT

The program may require the participants to take part in supportive services that are not disability-related services provided through the project as a condition of continued participation in the program. Examples of disability-related services include, but are not limited to, mental health services, outpatient health services, and provision of medication, which are provided to a person with a disability to address a condition caused by the disability.

Policy:

BCHA encourages participants to remain in supportive service programs for as long as needed to provide the individual or family with support to remain in independent housing situations.

In some situations, such as program violations, an individual or family may need additional services to resolve the issue and remain in the program. Such situations will be reviewed on a case-by-case basis.

Consumer Voice Policy

The Broward County Homeless Continuum of Care has provided an electronic survey platform where participants may provide feedback on the services provided under these grant programs. The link is provided to the participants after each reexamination appointment. Results are maintained by the Homeless Continuum of Care.

Participants on this program are invited to take part in the agency's Resident Advisory Board (RAB) annually. RAB members participate in the Annual and 5-year PHA plan process which include not only the goals for the agency, but significant amendments to the Administrative Plan.

DEFINITIONS (24 CFR 578.3)

At risk of homelessness. (1) An individual or family who:

(i) Has an annual income below 30 percent of median family income for the area, as determined by HUD;

(ii) Does not have sufficient resources or support networks, *e.g.*, family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition in this section; and

(iii) Meets one of the following conditions:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days of the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid

by charitable organizations or by federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

(F) Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(G) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan;

(2) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

(3) A child or youth who does not qualify as “homeless” under this section, but qualifies as “homeless” under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Centralized or coordinated entry assessment system means a centralized or coordinated process designed to coordinate program participant intake assessment and provision of referrals. A centralized or coordinated entry assessment system covers the geographic area, is easily accessed by individuals and families seeking housing or services, is well advertised, and includes a comprehensive and standardized assessment tool.

Chronically homeless means:

(1) A “homeless individual with a disability,” as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:

(i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and

(ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;

(2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or

(3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

Continuum of Care (COC) and Continuum means the group organized to carry out the responsibilities required under this part and that is composed of representatives of organizations, including nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service

providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans, and homeless and formerly homeless persons to the extent these groups are represented within the geographic area and are available to participate.

Developmental disability means, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002):

(1) A severe, chronic disability of an individual that—

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

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

(iii) Is likely to continue indefinitely;

(iv) Results in substantial functional limitations in three or more of the following areas of major life activity:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living;

(G) Economic self-sufficiency.

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

(2) An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three or more of the criteria described in paragraphs (1)(i) through (v) of the definition of “developmental disability” in this section if the individual, without services and supports, has a high probability of meeting these criteria later in life.

Fair Market Rent (FMR) means the Fair Market Rents published in the FEDERAL REGISTER annually by HUD.

Homeless means:

(1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

(i) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

(ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or

(iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(2) An individual or family who will imminently lose their primary nighttime residence, provided that:

(i) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

(ii) No subsequent residence has been identified; and

(iii) The individual or family lacks the resources or support networks, *e.g.*, family, friends, faith-based or other social networks, needed to obtain other permanent housing;

(3) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

(i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

(ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

(iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

(iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of

domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(4) Any individual or family who:

(i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

(ii) Has no other residence; and

(iii) Lacks the resources or support networks, *e.g.*, family, friends, and faith-based or other social networks, to obtain other permanent housing.

Homeless Management Information System (HMIS) means the information system designated by the Continuum of Care to comply with the HMIS requirements prescribed by HUD.

Permanent housing means community-based housing without a designated length of stay, and includes both permanent supportive housing and rapid rehousing. To be permanent housing, the program participant must be the tenant on a lease for a term of at least one year, which is renewable for terms that are a minimum of one month long and is terminable only for cause.

Permanent supportive housing means permanent housing in which supportive services are provided to assist homeless persons with a disability to live independently.

Program participant means an individual (including an unaccompanied youth) or family who is assisted with Continuum of Care program funds.

Project means the program funded under the Continuum of Care.

Safe haven means, for the purpose of defining chronically homeless, supportive housing that meets the following:

(1) Serves hard to reach homeless persons with severe mental illness who came from the streets and have been unwilling or unable to participate in supportive services;

(2) Provides 24-hour residence for eligible persons for an unspecified period;

(3) Has an overnight capacity limited to 25 or fewer persons; and

(4) Provides low-demand services and referrals for the residents.

Tenant-based rental assistance. Tenant-based rental assistance is rental assistance in which program participants choose housing of an appropriate size in which to reside.

A. FAIR HOUSING AND EQUAL OPPORTUNITY

BCHA will follow procedures outlined in Chapter 2 (Fair Housing and Equal Opportunity)

B. DETERMINATION OF ELIGIBILITY

For all HUD funded allocations (does not include BCHA 18 Unit).

Homeless individuals and families living in Broward County, Florida; where at least one adult household member is a person with a disability-

- Must participate in and be referred to BCHA through the Homeless Continuum of Care (HCOC) Coordinated Assessment process
- Must be living in Broward County, Florida
- Must meet HUD's definition of "Chronically Homeless" which includes a requirement that the eligible person is a person with disabilities
- Must meet the very low-income limits as established by HUD
- Applicants who are lifetime registered sex offenders are not eligible for the program.
- Applicants who have violent or drug related criminal activity in the last five years will be reviewed on a case-by-case basis with consideration given to circumstances. BCHA will follow procedures outlined in Chapter 3.
- Applicants must meet the requirements as outlined in Chapter 3-II.B. Citizenship or eligible immigration status (24 CFR 5, Subpart E)

All applicants must cooperate with partnering supportive service providers to document chronic homelessness, disability and complete BCHA referral packet prior to BCHA intake appointment.

Eligibility for BCHA 18 unit (County - General Funds program)

On October 1, 2021, Broward County Housing Options Solutions and Supports Division combined the S+C 18 Unit Expansion Project A & B into one program – BCHA 18 Unit – which updated eligibility requirements for new participants. All applicants are referred to BCHA through the

Broward County Continuum of Care Coordinated Entry Assessment process. Eligibility requirements for the General Funds program are:

- Individuals 18 years of age and older and families experiencing homelessness and living in Broward County who meet the criteria below:
 - Category 1 is defined as an individual or family:
 - Living in a public or private place not meant for human habitation;
 - Living in a temporary shelter, which includes congregate shelters and transitional housing; or
 - Exiting an institution where the individual has resided for 90 days or less and was living in a shelter or place not meant for human habitation before entering that institution.
 - Category 4 is defined as an individual or family fleeing or attempting to flee domestic violence, sexual assault, stalking, or other dangerous or life-threatening conditions.
- Must meet the very low-income limits as established by HUD
- Applicants who are lifetime registered sex offenders are not eligible for the program.
- Applicants who have violent or drug related criminal activity in the last five years will be reviewed on a case-by-case basis with consideration given to circumstances. BCHA will follow procedures outlined in Chapter 3
- Applicants must meet the requirements as outlined in Chapter 3-II.B. Citizenship or eligible immigration status (24 CFR 5, Subpart E)

Verification of Broward County Residence

Acceptable documentation of residency includes, but is not limited to:

- State issued identification card
- Utility bill
- Voter Registration card
- Bank statement
- Vehicle insurance and registration or
- Affidavit of Certification of homelessness

Certification of Homelessness

Supportive Service Partners will obtain documentation supplied by the Provider or another third-party, such as an outreach provider, emergency shelter, intake worker, or certification from the

individual seeking assistance. The Homeless Management Information System (HMIS) documentation may be used to document homelessness.

Disability Verification

Supportive Service Partners will provide verification of the qualifying disability from a licensed State of Florida professional who diagnosed or treats the condition; from the Social Security Administration (disability benefits – SSI or SSDI) or Veteran’s Administration disability check.

Social Security Numbers (SSN)

Applicants and all household members shall supply the complete and accurate social security numbers for each member and the documentation needed to verify each SSN in accordance with Chapter 3-II.C. Social Security Numbers.

Family Consent to Release Information

All adult family members must sign a release of information form that will allow BCHA to collect and verify information relevant to the family’s eligibility and level of assistance.

In addition, the Homeless Continuum of Care requires that a Release of Information (ROI) is signed to include family information in the Homeless Management Information System (HMIS) as required by the HUD grants.

Client Documentation required in the Community Partnerships Contract Provider Handbook

Client files must include:

- Intake form (application) that includes the client name, date of birth, race/ethnicity; eligibility, income, and verification where needed for eligibility; emergency contact information, date of program entry (HUD-50058)
- Release of Information
- Verification of Homelessness in HMIS (must upload in HMIS)
- Application with client demographic and contact information (serves as “face sheet”)
- Entry/Exit date into the program
- Updated Housing, employment and/or service plans (reviewed at least quarterly)
- Updated Income Verification
- Case Notes with signature and date (BCHA Elite system notes are password protected and document the writer of each note, date and time of note). These notes are retained in BCHA software system and are available as needed.
- Form indicating clients received a copy of the providers grievance procedure and client rights
- Conflict of Interest form
- Homeless Management Information System (HMIS) Release of Information (ROI)

C. SELECTION OF FAMILIES

All shelter and housing providers must participate in the COC Coordinated Entry and Assessment Housing Placement system. Coordinated entry for Permanent Supportive Housing is facilitated through the County's HMIS Zero 2016 referral portal.

All applicants are received via referral from the Coordinated Entry and Assessment (CEA) process. BCHA sends the names of referred individuals/families to supportive service partners for location of the client and initial eligibility determination which includes disability criteria and certification of homelessness or chronic homelessness. Once initial eligibility is met, an intake appointment with BCHA is conducted with the referred client to determine final eligibility.

D. BRIEFING OF FAMILIES

BCHA will utilize the procedures outlined in Chapter 5 (Briefing and Voucher Issuance).

If the applicant has supplied all necessary documentation and is determined eligible BCHA will make every effort to issue the certificate and provide the briefing the same day. As this program is not part of the Housing Choice Voucher program, a certificate will be issued.

E. Certificate Issuance and closure

When an applicant has been deemed eligible for the program or when an active participant will be moving from a subsidized unit, BCHA will issue a Certificate that will allow the assisted family to begin searching for a unit. The Certificate confirms the bedroom size issued, the search time and program rules. The certificate will allow an initial term of 60-days to search for a unit and the assisted family may request additional 30-day extensions if needed.

BCHA will utilize the policy in 5-II.B. Determining Family unit (Voucher) size and 5-II.C. Exception to Subsidy Standards to determine the certificate bedroom size. The bedroom size will determine the Fair Market Rent that will be compared to the gross rent of the selected unit as part of the approval process.

If the participant has not found a unit and supplied a move packet for approval within the issued search time or extension provided, the assisted family or the assigned case manager may send an e-mail or letter requesting a thirty-day extension to the search time. A list of units viewed should be listed on the supplied "housing search" form, must be attached to this request to document ongoing attempts to find a suitable unit. At minimum, the participant shall have monthly contact with the assigned BCHA Specialist during the search process. A referral to HOSS-D Housing Navigation will be offered with any extension.

If the participant does not find a unit within the first ninety days and/or has not maintained at least monthly contact, a staffing will be scheduled with appropriate parties to include BCHA staff, Continuum of Care Contract Manager, Coordinated Entry staff, case management (if family is engaged with one) and the head of household, if available. The staffing will be used to determine any action that may be taken either in favor or against the family. Some actions may be to assist the family in locating a unit more expeditiously or granting an additional 30-day extension. If the

family has not maintained contact, and/or attempts to locate the family have been unsuccessful the certificate may be withdrawn.

If the certificate is withdrawn, the action is not considered a program violation and is not considered a termination action. The family choosing not to maintain contact and not submitting a packet for a new unit will be considered a withdrawal by the family from the program. Withdrawal of the certificate does not prevent the family from being assisted by BCHA or the Continuum of Care in the future. In these instances, the family would need to go through the Coordinated Entry Assessment process for a referral to an appropriate intervention.

If there are any mitigating circumstances that kept the assisted family from locating a unit or maintaining regular contact, such as a hospitalization, the assisted family may submit documentation of those circumstances, in writing, for consideration within ten (10) calendar days of the withdrawal notification. However, due to the HUD program requirements for chronic homeless criteria, and breaks in chronicity, the family may need to be re-evaluated by Coordinated Entry for referral to an appropriate program.

F. INCOME AND SUBSIDY DETERMINATION

BCHA will utilize procedures outlined in Chapter 6 (Income and subsidy determination).

Minimum Rent Hardship

New admissions on the HHOPE allocations (SPC 25 & 74 unit) that enter with zero income will be automatically receive the minimum rent hardship.

All other allocations in this section will utilize the Hardship procedures outlined in Chapter 6 (Income).

G. SUITABLE DWELLING SIZE

The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.

If household composition changes during the term of assistance, recipients and sub-recipients may relocate the household to a more appropriately sized unit. The household must still have access to appropriate supportive services.

BCHA Policy:

BCHA will utilize the subsidy standards as outlined in Chapter 5, Briefings and Voucher Issuance.

H. VERIFICATION

As a condition of participation in the program, each program participant must agree to supply the information or documentation necessary to verify the program participant's income. Program participants must provide the Housing Authority with information at any time regarding changes in income or other circumstances that may result in changes to a program participant's contribution toward the rental payment.

BCHA Policy:

BCHA will utilize procedures outlined in Chapter 7 (Verification).

I. HOUSING QUALITY STANDARDS AND RENT REASONABLENESS

Housing Quality Standards

Housing leased with Continuum of Care program funds, or for which rental assistance payments are made with Continuum of Care program funds, must meet the applicable housing quality standards (HQS) under 24 CFR 982.401 of this title, except that 24 CFR 982.401(j) applies only to housing occupied by program participants receiving tenant-based rental assistance.

Before any assistance will be provided on behalf of a program participant, Housing Authority, must physically inspect each unit to assure that the unit meets HQS. Assistance will not be provided for units that fail to meet HQS, unless the owner corrects any deficiencies within 30 days from the date of the initial inspection and the Housing Authority verifies that all deficiencies have been corrected.

The program must inspect all units at least annually during the grant period to ensure that the units continue to meet HQS.

BCHA Policy:

BCHA will utilize HQS procedures outlined in Chapter 8 (Housing Quality Standards and Rent Reasonableness Determination) except that biennial inspections are not permitted under COC regulations.

Rent Reasonableness

HUD will only provide rental assistance for a unit if the rent is reasonable. The Housing Authority must determine whether the rent charged for the unit receiving rental assistance is reasonable in relation to rents being charged for comparable unassisted units, considering the location, size, type, quality, amenities, facilities, and management and maintenance of each unit. Reasonable rent must not exceed rents currently being charged by the same owner for comparable unassisted units.

Policy:

BCHA will utilize policies as outlined in Chapter 8 (Housing Quality Standards and Rent Reasonableness Determination).

J. LEASING

BCHA will utilize the procedures outlined in Chapter 9 (General Leasing Policies) and Chapter 16 (Program Administration) except 16-II. B Payment Standards as the COC program utilizes the Metropolitan Fair Market Rent.

K. MOVES

When necessary, to facilitate the coordination of supportive services, the program may require program participants to live in a specific area for their entire period of participation, or in a specific structure for the first year and in a specific area for the remainder of their period of participation.

Program participants who have complied with all program requirements during their residence retain the rental assistance if they move.

BCHA Policy:

BCHA and supportive service providers operate in Broward County and participants will reside in scattered site units in the Broward County area.

BCHA will utilize procedures outlined in Chapter 9, General Leasing Policies.

The programs utilize the Request for Tenancy Approval HUD-52517, however, a program specific Housing Assistance Payment Contract and Tenancy addendum will be utilized.

The section on Rent Burden does not apply to the COC programs. At initial lease up, the gross rent will not exceed the Metropolitan Fair Market Rent established for Broward County.

Should the assisted family request additional assistance in their search, BCHA will refer the family to the Broward County Homeless Continuum of Care Housing Navigation team. BCHA employs a Housing Liaison that may provide education on housing search, a list of known accessible units, leads on available units and referral to other supports.

Move-in Costs

Security Deposits

Continuum of Care funds may be used for security deposits in an amount not to exceed 2 months of rent. An advance payment of the last month's rent may be provided to the landlord, in addition to the security deposit and payment of first month's rent.

BCHA Policy:

Subject to funding availability, BCHA will provide Security Deposit assistance in the amount-not to exceed two (2) month's contract rent for new admission clients.

For the HUD projects, each participant is eligible to receive Security Deposit assistance once during participation in the program. At move out, the landlord is expected to return the deposit to the participant. If there are damages or unpaid rent, the landlord must follow Florida Law. BCHA will not pay for damages beyond the deposit paid on the participant behalf.

Should the Housing Authority determine sufficient funding is available, BCHA may at its discretion offer deposits to clients that are moving, however, should a participant require a deposit on more than two occasions, the case will be staffed with the Continuum of Care (COC) Contract Manager.

BCHA will provide the owner with a letter of commitment for the security deposit pending a passed inspection, rent reasonableness study and an executed Housing Assistance Payment Contract. Security Deposits will then be released in the next available payment run.

For BCHA 18 Unit General Funds Program

For BCHA 18 Unit (General Funds) program, participants may receive assistance with a security deposit on more than one occasion. Deposits are limited to up to two (2) month's contract rent. Should a participant require a deposit on more than two occasions, the case will be staffed with the COC Contract Manager.

Security deposits paid prior to 04/27/22: If the participant moves, the security deposit is to be returned directly to the participant minus any charges permitted under Florida law.

Security deposits paid on or after 04/27/22: Security deposit assistance must be returned to BCHA for use in re-housing individuals that have been evicted due to rent increase. Broward County HOSS-D will work with BCHA to ensure the deposits are returned (Broward County Memo Fair Market Rents Waiver for General Fund Housing Projects 04/27/2022). BCHA will not pay for damages beyond the deposit paid on the participant's behalf.

The landlord must provide BCHA with the full deposit paid by BCHA, if there are no assessed fees, claims or damages as permitted under Florida law. If the landlord intends to keep all or part of the security deposit, the landlord must supply copies of notices as required under Florida law to make such claims on the security deposit along with documentation to back up the claim (ex. Photos, receipts). BCHA staff will notify the Continuum of Care Contract Manager of any unreturned funds.

BCHA will provide the owner with a letter of commitment for the security deposit pending a passed inspection, rent reasonableness study and an executed Housing Assistance Payment Contract. Security Deposits will be released in the next available payment run.

First and Last month rent

The first month's rent will be paid after the HAP contract has been executed in an amount not to exceed the Housing Assistance Payment (HAP). The assisted family is responsible for their portion of the rent.

The last month rent will be paid when the last month has been reached, in an amount not to exceed the Housing Assistance Payment (HAP). The assisted family remains responsible for their portion of rent.

Utility Deposits

Continuum of Care funds may be used to pay utility deposits.

BCHA Policy:

BCHA does not pay utility deposits, defined as one-time fee paid to utility companies.

Moves outside geographic area served due to Domestic Violence (Violence Against Women Act (VAWA))

Program participants who have complied with all program requirements during their residence, who have been a victim of domestic violence, dating violence, sexual assault, or stalking, who reasonably believe they are imminently threatened by harm from further domestic violence, dating violence, sexual assault, or stalking (which would include threats from a third party, such as a friend or family member of the perpetrator of the violence) if they remain in the assisted unit, and who are able to document the violence and basis for their belief, may retain the rental assistance and move to a different Continuum of Care geographic area if they move out of the assisted unit to protect their health and safety. These program participants may move to a different Continuum of Care's geographic service area even if the program cannot meet all regulatory requirements of this part in the new geographic area where the unit is located. The program, however, must be able to meet all statutory requirements of the Continuum of Care program either directly or through a third-party contract or agreement.

BCHA Policy:

BCHA will contact and cooperate with the Broward County Continuum of Care and **follow** its Emergency Transfer Plan to facilitate mobility outside the Broward County area.

VAWA emergency transfer plan costs

Tenant-based rental assistance may use grant funds to pay amounts owed for breaking the lease if the family qualifies for an emergency transfer under the emergency transfer plan established under §578.99(j)(8).

BCHA Policy:

BCHA does not utilize grant funds to pay amounts owed for breaking the lease if the family qualifies for an emergency transfer under the emergency transfer plan.

Non-VAWA related moves outside geographic area served

Program participants other than those described above may choose housing outside of the Continuum of Care's geographic area if the Housing Authority, through its employees or contractors, is able to meet all requirements of this part in the geographic area where the program participant chooses housing. If the Housing Authority is unable to meet the requirements of this part, either directly or through a third-party contract or agreement, BCHA may refuse to permit the program participant to retain the tenant-based rental assistance if the program participant chooses to move outside of the Continuum of Care's geographic area.

BCHA Policy:

BCHA and partnering supportive service providers operate in Broward County and program participants will reside in the Broward County area. Should the family move out of the area, the assistance will end.

L. CALCULATING OCCUPANCY CHARGES AND RENT (24 CFR 578.77)

Each program participant on whose behalf rental assistance payments is made must pay a contribution toward rent in accordance with section 3(a)(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(a)(1)). Income of program participants must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a).

The project must examine a program participant's income initially, and if there is a change in family composition (*e.g.*, birth of a child) or a decrease in the resident's income during the year, the resident may request an interim reexamination, and the occupancy charge will be adjusted accordingly.

M. VACANCIES

If a unit assisted under this section is vacated before the expiration of the lease, the assistance for the unit may continue for a maximum of 30 days from the end of the month in which the unit was vacated, unless occupied by another eligible person. No additional assistance will be paid until the unit is occupied by another eligible person. Brief periods of stays in institutions, not to exceed 90 days for each occurrence, are not considered vacancies.

BCHA Policy:

BCHA will pay rental assistance through the end of the month in which the unit was vacated.

In the case of a single assisted family member or single assisted family member with a live-in-aide, assistance will be paid through the end of the month in which the death occurred or move out by the eligible individual.

Live-in-Aides are not considered members of the assisted family as they are solely in the assisted unit to care for an assisted family member and are not entitled to continued assistance once the eligible individual has passed away or has otherwise left the program.

When the eligible individual is placed in an institution, the case will be reviewed in at minimum 30-day intervals. This may include a staffing(s) with the participant, supportive service providers, health care providers, CoC contract manager, and/or other knowledgeable parties to determine the likelihood of returning to the subsidized unit within 90-days. Before the end of sixty days, if it appears the family will not return to the unit in the required time frame, appropriate notices will be sent to end the HAP contract and participation in the program.

In the case of extended absence or abandonment of the subsidized unit, BCHA staff will reach out to appropriate parties (Continuum of Care Contract Manager, Supportive Services and/or other knowledgeable parties) to determine if the unit has been vacated/abandoned. In addition, verification with the owner, and utility companies will be requested. An inspection of the unit may also be conducted, if needed, to confirm the abandonment. A staffing may be conducted, on a case-by-case basis, to fully understand the situation, including mitigating circumstances and determine a course of action.

N. PROPERTY DAMAGE

The Housing Authority may use grant funds in an amount not to exceed one month's rent to pay for any damage to housing due to the action of a program participant. This shall be a one-time cost per participant, incurred at the time a participant exits a housing unit.

BCHA Policy:

BCHA does not use grant funds to pay for damage to the housing unit due to the action of a program participant.

O. REEXAMINATIONS AND INTERIM CHANGES

The Housing Authority must examine a program participant's income initially, and at least annually thereafter, to determine the amount of the contribution toward rent payable by the program participant. Adjustments to a program participant's contribution toward the rental payment must be made as changes in income are identified.

BCHA Policy:

BCHA will utilize procedures outlined in Chapter 11, (Reexaminations) to address annual review and changes to the household composition, assets, income, and deductions.

P. DENIAL OR TERMINATION OF ASSISTANCE

Termination of assistance to program participants (24 CFR 578.91).

The Housing Authority may terminate assistance to a participant who violates program requirements or conditions of occupancy. Termination under this section does not bar the project from providing further assistance later to the same individual or family.

BCHA Policy:

BCHA will utilize procedures outlined in Chapter 12 (Denial or Termination of Assistance).

In accordance with the Broward County Contract Provider Handbook:

- A copy of the termination notice must be sent to the Continuum of Care Contract Manager
- A copy of any hearing decision must be sent to the Continuum of Care Contract Manager within thirty (30) days after the final determination is made.

Hard-to-house populations

Programs that are providing permanent supportive housing for hard-to-house populations of homeless persons must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination so that a program participant's assistance is terminated only in the most severe cases.

BCHA Policy:

In accordance with the Broward County Contract Provider Handbook, all proposed termination actions must be coordinated through the CoC Contract Manager and a staffing may occur with appropriate parties. BCHA will coordinate with HOSS-D to schedule the required staffing.

When a program participant is engaged with a supportive service provider, recommendations of the provider will be considered before moving to terminate assistance.

Should the provider advocate for the family to retain assistance, the provider shall provide an action plan signed by both the provider and participant describing action steps to assist the participant in resolving the issue or preventing reoccurrence.

Should the provider recommend termination of assistance, and BCHA moves to terminate, the provider will submit the recommendation in writing with a timeline of events that led to this situation and will be required to participate in any hearings requested by the family in accordance with grievance policies.

Q. RETENTION OF ASSISTANCE

Retention of assistance after death, incarceration, or institutionalization for more than 90 days of qualifying member

Surviving members of an-assisted family who were living in a unit at the time of the qualifying member's death, long term incarceration, or long-term institutionalization, have the right to rental assistance until the expiration of the lease in effect at the time of the qualifying member's death, long term incarceration, or long-term institutionalization.

Live-in-Aides are not considered surviving members of the assisted family and do not retain a right to rental assistance for any month after the month of the qualifying member's death or vacancy.

Remaining program participants following bifurcation of lease or eviction because of domestic violence

Members of an assisted family who were living in the unit at the time of a qualifying member's eviction from the unit because the qualifying member was found to have engaged in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, have the right to rental assistance under this section until the expiration of the lease in effect at the time of the qualifying member's eviction.

R. OWNERS

BCHA will utilize the procedures outlined in Chapter 13 (Owners)

S. PROGRAM INTEGRITY

BCHA will utilize the procedures outlined in Chapter 14 (Program Integrity).

T. Incident Reports

The provider is required to notify the Continuum of Care Contract Manager of an incident or circumstance that occurs at a facility or involves a client as described in the Broward County Community Partnership Division Contract Provider Handbook. The provider must also immediately report knowledge or reasonable suspicion of abuse, neglect, and exploitation of a child, aged person, or disabled adult to the Florida Abuse Hotline on the state-wide toll-free

telephone number (1-800-96-ABUSE).

BCHA will follow timelines and situations as outlined in the Broward County Community Partnership Divisions Contract Provider Handbook.

U. GRIEVANCE PROCEDURES

In terminating assistance to a program participant, the Housing Authority must provide a formal process that recognizes the rights of individuals receiving assistance under the due process of law.

BCHA Policy:

BCHA will utilize the procedures outlined in Chapter 16 (Program Administration).

PART IV: MODERATE REHABILITATION PROGRAM (24 CFR 882)

INTRODUCTION

The purpose of the Moderate Rehabilitation (MOD) Program is to upgrade substandard rental housing and to provide rental subsidies for low-income Families.

A. FAIR HOUSING AND EQUAL OPPORTUNITY

BCHA will follow procedures outlined in Chapter 2 (Fair Housing and Equal Opportunity).

B. APPLICATION WAITING LIST

A. BCHA will maintain its waiting list for the Moderate Rehabilitation Program by utilizing its Housing Choice Voucher waiting list.

1. Families applying for the Housing Choice Voucher may indicate at the time they place their name on the waiting list whether they would be interested in the Moderate Rehabilitation Program.
2. It will be explained to the applicant that the assistance will be available only in specified units which have been rehabilitated through the program.

C. ELIGIBILITY FOR ADMISSION

A. BCHA will use the criteria for admissions as outlined in Chapter 3 of the Administrative Plan. The statutory authority for Section E is found in 24 CFR 882.413(b) for the Moderate Rehabilitation Program. **NOTE: SECTION D. SUITABILITY OF FAMILY, OF CHAPTER 3 DOES NOT APPLY TO THE MODERATE REHABILITATION PROGRAM.**

B. BCHA will use the criteria for determining bedroom size as outlined in Chapter 5 of the Administrative Plan.

D. SELECTION OF FAMILIES

A. When vacancies occur, BCHA will refer to the Owner one (1) or more appropriate size Families on its waiting list.

1. BCHA will use the criteria outlined in Chapter 4 (Establishing Preferences and Managing the Waiting List for referring Families). Only those Families who expressed an interest in the Moderate Rehabilitation Program will be referred.
2. The Owner is responsible for tenant selection. The Owner may refuse any Family, provided the Owner does not unlawfully discriminate.
3. Should the Owner reject a Family, and should the Family believe that the Owner's rejection was the result of unlawful discrimination the Family may request the assistance of BCHA in resolving the issue. If the issue cannot be resolved

promptly, the matter will be referred to HUD. The applicant will not be removed from the existing waiting list.

4. If BCHA is unable to refer a sufficient number of interested applicants on the waiting list to the Owner within thirty days of the Owner's notification to BCHA of vacancy, the Owner may advertise or solicit applications from Low-Income Families and refer such Families to BCHA to determine eligibility.

E. BRIEFING OF FAMILIES

- A. BCHA will provide all Families determined eligible for housing assistance with a briefing session to explain the Tenant Rent and the Authority's schedule of Utility Allowances. Other items covered in the Briefing Session will include:
 1. Family Owned responsibility under the Lease and Contract;
 2. Significant aspects of the applicable State and Local laws;
 3. Significant aspect of Federal, State and Local fair housing laws;
 4. The fact that the subsidy is tied to the unit and the Family must occupy a unit rehabilitated under the Program; and
 5. The Family's options under the Program should the Family be required to move due to an increase or decrease in Family size.
 6. Information on lead-based unit.

F. INCOME AND SUBSIDY DETERMINATION

BCHA will utilize procedures outlined in Chapter 6 (Income and subsidy determination) except that the use of Payment Standards does not apply to this program. The family payment to owner is the Gross Family Contribution minus the appropriate allowance for tenant-paid utilities and services.

G. VERIFICATION

BCHA will utilize procedures outlined in Chapter 7 (Verification).

H. REEXAMINATIONS AND INTERIM CHANGES

BCHA will utilize the procedures as outlined in Chapter 11 (Reexamination).

I. HOUSING QUALITY STANDARDS AND RENT REASONABLENESS

BCHA will utilize the procedures as outlined in Chapter 8 (Housing Quality Standards and Rent Reasonableness Determination). Except that Moderate Rehabilitation units must be inspected at least once every twelve (12) months and are not eligible for biennial inspection.

J. PROGRAM INTEGRITY

BCHA will utilize the procedures outlined in Chapter 14 (Program Integrity).

K. DENIAL OR TERMINATION OF ASSISTANCE

BCHA will utilize the procedures as outlined in Chapter 12 (Denial or Termination of Assistance).

L. GRIEVANCE PROCEDURE

BCHA will utilize the Complaints and Grievances Procedure outlined in Chapter 16 (Program Administration).

PART V: MAINSTREAM DISABILITY 5-YEAR PROGRAM (MS5)

INTRODUCTION

The purpose of the Mainstream Program, also called Section 811 or Mainstream 5-year (MS5), is to assist non-elderly families with disabilities by providing tenant-based rental assistance in the form of a Housing Choice Voucher.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers are administered the same as regular Housing Choice Vouchers (HCV).

At turnover, ALL Mainstream Vouchers must be reissued to the next Mainstream-eligible family on the PHA's waiting list. Turnover occurs when a family receiving Mainstream Voucher Assistance leaves the program. (PIH 2020-01)

Line 2n of the HUD-50058 must reflect MS5 for all households assisted under this program.

BCHA has partnered with local supportive services agencies, including Center for Independent Living – Broward, Broward County Family Success Administration and Broward Behavioral Health Coalition to assist applicants and participants in areas of housing search and identification, budgeting, consumer workshops, assistive technology, durable and medical equipment, case management, and linkage to Behavioral Health providers. Referral to a partner agency is sent upon request of the family.

This section does not apply for the Mainstream 1-year (NED) program as funding, monitoring and eligibility requirements are different.

Application Waiting List

BCHA must maintain one (1) waiting list for all tenant-based assistance (24 CFR 982.204(f)). When issuing a Mainstream Voucher, BCHA will choose the first (1st) Mainstream eligible family from the HCV wait list.

If a Mainstream turnover voucher becomes available, BCHA must determine if the families at the top of their waiting list qualify under the program requirements. (PIH 2020-01)

BCHA is not permitted to reassign existing participants to the Mainstream Voucher Program in order to make regular tenant-based vouchers available.

BCHA will maintain the waiting list by date and time they applied and preference as listed in this plan.

In the event there is an insufficient pool of Mainstream eligible families on the HCV waiting list solely for Mainstream eligible applicants in accordance with 24 CFR 982.206(b)(1). BCHA will comply with 24 CFR 982.206 requirements for opening a waitlist, as well as, processes outlined in Chapter 4 of this plan.

A. FAIR HOUSING AND EQUAL OPPORTUNITY

BCHA will follow procedures outlined in Chapter 2 (Fair Housing and Equal Opportunity).

B. ELIGIBILITY CRITERIA FOR ADMISSION

A household that includes non-elderly person(s) with disabilities, defined as any family that includes a person with disability(ies), who is at least eighteen (18) years old and not yet sixty-two (62) years old at the effective date of the initial Housing Assistance Payment (HAP) contract (same as effective date of the new admission). (PIH 2020-01)

Non-elderly person with disabilities (for purposes of determining eligibility): A person eighteen (18) years of age or older and less than sixty (62) years of age, and who:

- (i) Has a disability, as defined in 42 U.S.C. 423;
- (ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - a. Is expected to be of long-continued and indefinite duration;
 - b. Substantially impedes his or her ability to live independently, and
 - c. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- (iii) Has a developmental disability as defined in 42 U.S.C. 6001.

Once eligible, participants do not “age out” of eligibility. Existing families receiving Mainstream Vouchers, where the eligible member is now sixty-two (62) or older, will NOT “age out” of the Mainstream Voucher program as long as the family was eligible on the day it was first (1st) assisted under a HAP contract.

BCHA will follow procedures outlined in Chapter 3 (Eligibility) to determine HCV eligibility.

C. SELECTION OF FAMILIES

The order of selection is based on BCHA’s System of date and time of application. BCHA will follow procedures outlined in Chapter 4 (Applications, Waiting List and Tenant Selection).

D. REMOVAL FROM WAITING LIST AND PURGING

BCHA will utilize procedures outlined in Chapter 4 (Applications, Waiting List and Tenant Selection).

E. BRIEFING OF FAMILIES:

BCHA will utilize the procedures outlined in Chapter 5 (Briefing and Voucher Issuance).

F. INCOME AND SUBSIDY DETERMINATION

BCHA will utilize procedures outlined in Chapter 6 (Income and subsidy determination).

G. VERIFICATION

BCHA will utilize procedures outlined in Chapter 7 (Verification).

H. LEASING

BCHA will utilize the procedures outlined in Chapter 9 (General Leasing Policies) and Chapter 16 (Program Administration).

I. MOVES AND PORTABILITY

Moves within BCHA jurisdiction

BCHA will utilize the procedures outlined in Chapter 10 (Moving with continued assistance).

Portability

If a Mainstream voucher participant ports to another PHA and the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream Voucher. The receiving PHA must maintain code MS5 in line 2N of the HUD-50058.

If the PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream Voucher if the receiving PHA has a Mainstream Voucher available and the Mainstream Voucher at the initial PHA will be freed up to lease to another Mainstream eligible family.

BCHA will follow Portability procedures as outlined in Chapter 10 (Moving with Continued Assistance and Portability).

J. REEXAMINATIONS AND INTERIM CHANGES

BCHA will utilize the procedures outlined in Chapter 11 (Reexamination).

K. HOUSING QUALITY STANDARDS

BCHA will utilize the procedures outlined in Chapter 8 (Housing Quality Standards and Rent Reasonableness Determination).

L. DENIAL OR TERMINATION OF ASSISTANCE

BCHA will utilize the procedures outlined in Chapter 12 (Denial or Termination of Assistance).

M. OWNERS

BCHA will utilize the procedures outlined in Chapter 13 (Owners).

N. PROGRAM INTEGRITY

BCHA will utilize the procedures outlined in Chapter 14 (Program Integrity).

O. GRIEVANCE PROCEDURES

BCHA will utilize the procedures outlined in Chapter 16 (Program Administration).

PART VI: NON-ELDERLY DISABLED (NED) VOUCHER/MAINSTREAM 1-YEAR

INTRODUCTION

The Non-Elderly Disabled Voucher (Mainstream 1-Year) program provides Housing Choice Voucher assistance to very low income, non-elderly disabled (NED) families on the agency's Housing Choice Voucher waiting list.

Aside from separate funding appropriations and serving a specific population, NED vouchers are administered the same as regular Housing Choice Vouchers (HCV).

At turnover, ALL NED Vouchers must be reissued to the next NED-eligible family on the PHA's waiting list. Turnover occurs when a family receiving NED Voucher Assistance leaves the program. (PIH 2020-01)

Line 2n of the HUD-50058 must reflect NED for all households assisted under this program.

This section does not apply for the Mainstream 5-year (MS5) program as funding, monitoring and eligibility requirements are different.

Application Waiting List

BCHA must maintain one waiting list for all tenant-based assistance (24 CFR 982.204(f)). When issuing a NED Voucher, BCHA will choose the first (1st) NED eligible family from the HCV wait list.

If a NED turnover voucher becomes available, BCHA must determine if the families at the top of their waiting list qualify under the program requirements. (PIH 2020-01)

BCHA will maintain the waiting list by date and time they applied and preference as listed in this plan.

In the event there is an insufficient pool of NED eligible families on the HCV waiting list solely for NED eligible applicants in accordance with 24 CFR 982.206(b)(1). BCHA will comply with 24 CFR 982.206 requirements for opening a waitlist, as well as, processes outlined in Chapter 4 of this plan.

A. FAIR HOUSING AND EQUAL OPPORTUNITY

BCHA will follow procedures outlined in Chapter 2 (Fair Housing and Equal Opportunity).

B. ELIGIBILITY CRITERIA FOR ADMISSION

Non-elderly Disabled (NED) eligibility is based on a family meeting the following criteria:

The Head of Household, spouse or co-head is eighteen (18) years of age or older and less than sixty-two (62) years of age who:

- (i) Has a disability, as defined in 42 U.S.C. 423;

- (ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:
 - a. Is expected to be of long-continued and indefinite duration;
 - b. Substantially impedes his or her ability to live independently, and
 - c. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or
- (iii) Has a developmental disability as defined in 42 U.S.C. 6001.

Families with only a minor child with a disability are ineligible.

Once eligible, participants do not “age out” of eligibility. Existing families receiving NED Vouchers, where the eligible member is now sixty-two (62) or older, will NOT “age out” of the NED Voucher program as long as the family was eligible on the day it was first assisted under a HAP contract.

BCHA will follow procedures outlined in Chapter 3 (Eligibility) to determine HCV eligibility.

C. SELECTION OF FAMILIES

The order of selection is based on BCHA’s System of date and time of application and preference as described in chapter 4 (Applications, Waiting List and Tenant Selection).

D. REMOVAL FROM WAITING LIST AND PURGING

If an applicant fails to respond to a mailing from BCHA, the applicant will be sent a second (2nd) written notification giving fifteen (15) business days to contact BCHA. If they fail to respond within fifteen (15) business days they will be removed from the waiting list. If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, the envelope and the letter will be maintained in the file. If a letter is returned with a forwarding address, it will be re-mailed to the address indicated. If an applicant is removed from waiting list for failure to respond they will not be entitled to reinstatement.

The waiting list will be purged periodically by mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for current information and confirmation of continued interest. The same guideline will be used for failure to respond to the mailing.

E. BRIEFING OF FAMILIES

BCHA will utilize the procedures outlined in Chapter 5 (Briefing and Voucher Issuance).

F. INCOME AND SUBSIDY DETERMINATION

BCHA will utilize procedures outlined in Chapter 6 (Income and subsidy determination)

G. VERIFICATION

BCHA will utilize procedures outlined in Chapter 7 (Verification)

H. HOUSING QUALITY STANDARDS

BCHA will utilize the procedures outlined in Chapter 8 (Housing Quality Standards and Rent Reasonableness Determination).

I. LEASING

BCHA will utilize the procedures outlined in Chapter 9 (General Leasing Policies) and Chapter 16 (Program Administration)

J. MOVES AND PORTABILITY

Moves within BCHA jurisdiction

BCHA will utilize the procedures outlined in Chapter 10 (Moving with continued assistance).

Portability

If a NED voucher participant ports to another PHA and the receiving PHA chooses to bill the initial PHA, then the voucher will remain a NED Voucher. The receiving PHA must maintain code NED in line 2N of the HUD-50058.

If the PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a NED Voucher if the receiving PHA has a NED Voucher available and the NED Voucher at the initial PHA will be freed up to lease to another NED eligible family.

BCHA will follow Portability procedures as outlined in Chapter 10 (Moving with Continued Assistance and Portability).

K. REEXAMINATIONS AND INTERIM CHANGES

BCHA will utilize procedures outlined in Chapter 11 (Reexaminations)

L. DENIAL OR TERMINATION OF ASSISTANCE

BCHA will utilize the procedures outlined in Chapter 12 (Denial or Termination of Assistance).

M. OWNERS

BCHA will utilize the procedures outlined in Chapter 13 (Owners)

N. PROGRAM INTEGRITY

BCHA will utilize the procedures outlined in Chapter 14 (Program Integrity)

O. GRIEVANCE PROCEDURES

BCHA will utilize the procedures outlined in Chapter 16 (Program Administration)

PART VII: VETERANS ADMINISTRATION SUPPORTIVE HOUSING (HUD-VASH)

INTRODUCTION

BCHA operates the HUD-Veterans Affairs Supportive Housing (HUD-VASH) Program. The HUD-VASH program combines HUD Housing Choice Voucher (HCV) rental assistance for homeless veterans with case management and clinical services provided by the Department of Veteran Affairs (VA) at its medical centers.

Although HUD-VASH vouchers are administered in accordance with the Housing Choice Voucher regulations at 24 CFR part 982, the 2008 Appropriations Act authorized the HUD Secretary to waive, or specify alternative requirements for any provision of any statute or regulation deemed necessary for effective delivery and administration of the HUD-VASH program.

All regulations of 24 CFR part 982 apply to the HUD-VASH program unless the HUD Secretary has indicated otherwise.

Family Eligibility for the HUD-VASH Program

Partnering Veteran Affairs Medical Centers (VAMC) will refer HUD-VASH eligible families to BCHA for determination of income eligibility. Written documentation of these referrals must be maintained in BCHA tenant file.

Waiting List and Preferences

BCHA does not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. The HUD Secretary has waived 24 CFR sections 982.202, 982.204, and 982.207 relating to applicant selection from the waiting list, cross listing of the waiting list and opening and closing of the waiting list.

The local Veterans Administration Medical Center (Miami, FL) will screen and refer eligible families to the HUD-VASH program.

Screening for Criminal History:

The VAMC will screen all families in accordance with its screening criteria. BCHA does not have the authority to screen potentially eligible families or deny assistance because of criminal history for any grounds permitted under 24 CFR 982.552 and 982.553 with the exception to conduct a criminal history screening to determine whether any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. BCHA shall prohibit admission of a family if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

A. TERMINATIONS AND DENIALS

All grounds for denial of participation including denial due to lack of citizenship, the family

having committed fraud, owing money to any PHA and the like are not applicable to HUD-VASH applicants.

1. Authority to Terminate for Failure to Participate in Case Management

As a condition of HCV rental assistance in the HUD-VASH program, a HUD-VASH family is required to receive case management services from the VAMC. Failure to comply with case management services without good cause as verified by the VAMC will result in termination from the program.

2. When Case Management is No Longer Needed

A VAMC determination that a participant HUD-VASH family no longer requires case management services is not grounds for termination of HUD-VASH assistance. So long as the family remains in compliance with other program regulations, they may receive continued assistance under the HUD-VASH program.

3. The PHA may terminate program assistance for a family evicted from housing assisted under the program for serious violation of lease. Prior to terminating HUD-VASH participants, BCHA will exercise discretion under 24 CFR 982.552 (c)(2) and consider all relevant circumstances of the specific case, including the role of the case manager and the impact that ongoing case management services can have on mitigating conditions that led to the potential termination, prior to determining whether to terminate assistance. BCHA requests a letter of advocacy or agreement with termination action from the VAMC as part of this determination process.

B. INCOME ELIGIBILITY

BCHA will determine income eligibility in accordance with 24 CFR 982.201.

C. INCOME TARGETING

Income targeting requirements of 24 CFR 982.201(b) (2) does not apply to HUD-VASH families.

D. INITIAL TERM OF THE HOUSING CHOICE VOUCHER

HUD-VASH vouchers must have an initial search term of one hundred-twenty (120) days, or such other number of days as may be designated by the Secretary of Housing and Urban Development for the HUD-VASH program.

1. Extensions

Chapter 8, section E, *Extensions* of this Administrative Plan shall not apply to the HUD-VASH program. Except where required as reasonable accommodation, the HUD-VASH voucher will expire after the initial term of one hundred-twenty (120) days.

2. Any extensions, suspensions, and progress reports will remain under the policies of the

administrative plan but will apply after the maximum 120-day initial search term.

3. Extensions of search terms may also be needed as a reasonable accommodation for a household with a member with disability.

E. INITIAL LEASE TERM

To provide a greater range of housing opportunities for HUD-VASH voucher holders, the Secretary has waived 24 CFR 982.309(a) (2) (ii) allowing initial leases to be for periods of less than twelve (12) months.

BCHA will continue to require an initial lease of twelve (12) months.

Units on Grounds of a Medical, Mental, Or Similar Public Private Institution

The HUD Secretary has waived 24 CFR 982.352(a) (5) allowing HUD-VASH families to live on the grounds of a VAMC in units owned by the VA.

HUD-VASH Portability

The HUD Secretary has made the following determinations with regard to portability in the HUD-VASH program.

HUD-VASH families must receive case management services provided by the VAMC to participate in the HUD-VASH program. HUD-VASH families may only reside in those areas that are accessible to case management services as determined by the partnering VAMC.

1. Portability Moves within the same catchment area and both PHA's do not have a VASH program.

If the HUD-VASH family initially leases up, or moves under portability and receives case management services from the initial PHA's partnering VAMC, the receiving PHA must process the move in accordance with the portability procedures of 24 CFR 982.355. The receiving PHA must bill the initial PHA. In these cases, 24 CFR 982.355(d) is not applicable and the receiving PHA may not absorb the family.

2. Portability moves within same catchment area where both PHAs have received HUD-VASH vouchers

The receiving PHA may bill the initial PHA or absorb the family into its own HUD-VASH program if the VAMC or DSP providing the initial case management agrees to the absorption by the receiving PHA and the transfer of case management.

3. Portability moves where receiving PHA is beyond the catchment area.

If the family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the VAMC or DSP must first determine that the HUD-VASH family could be served by another VAMC or DSP that is participating in this program and the receiving PHA must have a

HUD-VASH voucher available for this family. In these cases, the family must be absorbed by the receiving PHA.

Upon absorption, the initial PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family. The absorbed family will count towards the number of HUD-VASH slots awarded to the receiving PHA.

4. Portability where the receiving PHA is beyond the catchment area for victims of domestic violence, dating violence, sexual assault, and stalking

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health, or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and believes him- or herself to be threatened with imminent harm from further violence by remaining in the dwelling unit (or any family member has been the victim of sexual assault that occurred in the premises during the 90-day calendar period preceding the family's move or request or request to move), may port prior to receiving approval from the receiving VAMC or DSP. The initial PHA must follow its emergency transfer plan.

The participant must still port to a PHA that has a HUD-VASH program. If the receiving PHA does not have an available HUD-VASH voucher available, they may bill the initial PHA until a HUD-VASH voucher is available, at which point the veteran must be absorbed into the Receiving PHA HUD-VASH program.

The veteran escaping violence must be admitted to the VAMC or DSP's caseload.

5. Portability moves when Case Management is No longer required.

If the family no longer requires case management, as determined by the VAMC, there are no portability restrictions.

The Receiving PHA must continue to code line 2N of the HUD-50058 as VASH unless the family has been moved to a regular HCV, in which case line 2N would be left blank.

F. TURNOVER OF HUD-VASH VOUCHERS

In accordance with the 2008 Appropriations Act of 2008, upon turnover, HUD-VASH vouchers must be issued only to eligible families identified by the partnering VAMC.

G. FAMILY BREAK-UP

In the case of family break-up, the HUD-VASH assistance must stay with the HUD-VASH veteran.

In the case of domestic violence, dating violence, sexual assault, or stalking, in which the HUD-VASH participant is the perpetrator, the victim must continue to be assisted. Upon termination of the perpetrator's HUD-VASH voucher due to the perpetrator's acts of domestic violence, dating violence, sexual assault, or staking, the victim must be given a regular HCV

voucher if one is available, and the perpetrator's HUD-VASH voucher must be used to assist another HUD-VASH veteran family.

If a regular HCV is not available for the victim, the perpetrator must be terminated from assistance, and the victim will continue to utilize the HUD-VASH voucher.

H. FAIR HOUSING AND EQUAL OPPORTUNITY

BCHA will follow procedures outlined in Chapter 2 (Fair Housing and Equal Opportunity).

I. BRIEFING OF FAMILIES

BCHA will utilize the procedures outlined in Chapter 5 (Briefing and Voucher Issuance).

J. INCOME AND SUBSIDY DETERMINATION

BCHA will utilize procedures outlined in Chapter 6 (Income and subsidy determination).

K. VERIFICATION

BCHA will utilize procedures outlined in Chapter 7 (Verification).

L. REEXAMINATIONS AND INTERIM CHANGES

BCHA will utilize the procedures as outlined in Chapter 11 (Reexamination).

M. HOUSING QUALITY STANDARDS AND RENT REASONABLENESS

BCHA will utilize the procedures as outlined in Chapter 8 (Housing Quality Standards and Rent Reasonableness Determination).

N. LEASING

BCHA will utilize the procedures outlined in Chapter 9 (General Leasing Policies) and Chapter 16 (Program Administration).

O. SPECIAL HOUSING TYPES

HUD-VASH clients must be permitted to use the following housing types for tenant-based HUD-VASH assistance, regardless of whether these types are permitted in their administrative plan for other families: Single-room Occupancy (SRO), congregate housing, group home, shared housing, and cooperative housing.

P. MOVES WITHIN BCHA JURISDICTION

BCHA will utilize the procedures outlined in Chapter 10 (Moving with continued assistance).

Q. OWNERS

BCHA will utilize the procedures outlined in Chapter 13 (Owners)

R. DENIAL OR TERMINATION OF ASSISTANCE

BCHA will utilize the procedures as outlined in Chapter 12 (Denial or Termination of Assistance).

S. PROGRAM INTEGRITY

BCHA will utilize the procedures outlined in Chapter 14 (Program Integrity).

T. GRIEVANCE PROCEDURES

BCHA will utilize the procedures as outlined in Chapter 16 (Program Administration).

PART VIII : EMERGENCY HOUSING VOUCHERS

INTRODUCTION

The Emergency Housing Voucher (EHV) program was created through the American Rescue Plan Act of 2021 to assist individuals and families who are experiencing homelessness; at risk of homelessness; fleeing or attempting to flee, domestic violence, dating violence sexual assault, stalking, or human trafficking; or who were recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

Waivers and Alternative Requirements

Unless specifically waived, EHV's will follow all statutory, regulatory requirements, and HUD directives regarding the Housing Choice Voucher program, including the use of all HUD-required contracts and other forms.

COVID-19 waivers

The Coronavirus Aid, Relief and Economic Security Act (CARES) provides HUD with broad authority to waive or establish alternative requirements for numerous statutory and regulatory requirements for the HCV program. HUD is exercising its waiver authority under ARP to provide the same menu of HCV-applicable CARES Act Waivers for the administration of EHV assistance. Use of COVID-19 waivers is at the discretion of the PHA.

BCHA Policy:

BCHA will utilize any COVID-19 waivers it would utilize for the regular HCV program.

Required Partnerships with the HCoC and other organizations for direct referrals and services (mandatory alternative requirement)

HUD has established an alternative requirement under which the PHA must enter into a Memorandum of Understanding (MOU) with the HCoC to establish a partnership for the administration of EHV's. The primary responsibility of the HCoC is to make direct referrals of qualifying individuals and families through the Coordinated Entry system to the PHA. In addition, the HCoC are responsible for determining whether the family qualifies under one of the four eligible categories for EHV. The HCoC is encouraged to offer or make connections to supportive services for families that are referred to the PHA, including but not limited to, short or long-term case management, collecting necessary verifications to support referrals, housing counseling, housing search assistance and utility deposit assistance.

BCHA Policy:

BCHA has an established partnership with the Broward County Continuum of Care and Purpose Build Families Foundation – Operation Sacred Trust. In addition,

BCHA has established partnerships with local Victim Services Providers, Nancy J Cotterman Center and Women in Distress Broward, for direct referrals to EHV.

Admissions process – Direct referrals from the HCoC and other partnering organizations (mandatory alternative requirement)

HUD has waived 982.204 (a) that requires except for special admissions, participants must be selected from the PHA waiting list and that the PHA must select participants from the waiting list in accordance with admission policies in the PHA administrative plan. As an alternative requirement, PHA's must accept referrals for EHV's directly from the Coordinated Entry (CE) system. These referrals are not added to the Housing Choice Voucher wait list.

EHV's are issued as the result of either:

- The direct referral process from the HCoC CE system and/or partnering organizations, or
- A situation where the PHA makes an EHV available in order to facilitate an emergency transfer in accordance with the Violence Against Women Act (VAWA) as outlined in the PHA's emergency transfer plan.

The PHA may take referrals from outside the HCoC CE system if:

- The CE system does not have sufficient number of eligible families to refer to the PHA, or
- The CE system does not identify families that may be eligible for EHV because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking

Other than cases where a family is requesting an emergency transfer in accordance with VAWA, the PHA must refer the family to the HCoC or partner agency for initial intake, assessment, and possible referral to EHV.

If the PHA is not receiving sufficient referrals or not receiving referrals in a timely manner from the HCoC CE system, the PHA should contact HUD for assistance.

BCHA Policy:

BCHA has an established partnership with the Broward County Homeless Continuum of Care, Purpose Built Families Foundation, Nancy J. Cotterman Center and Women in Distress Broward. All referrals will go through the CE system, however, persons who are fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking or human trafficking will be referred directly to BCHA via the designated EHV Victim Service Provider Liaison.

Required housing search assistance

PHAs must ensure housing search assistance is made available to EHV families during their initial housing search. The assistance may be provided by the PHA, the HCoC, or another partner agency or entity.

Housing search assistance at minimum must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as, units in low-poverty neighborhoods,
- Provide transportation assistance and directions to potential units
- Conduct owner outreach
- Assist with the completion of rental applications and PHA forms
- Help expedite the EHV leasing process for the family

Other recommended, but not required housing search activities include:

- Helping individual families identify barriers to leasing (eg, low credit score; eviction history);
- Strategies to address barriers;
- Workshops on how to conduct an effective housing search;
- Enhanced support for portability processing;
- Regular proactive check-ins for families searching with a voucher;
- Regular reminders to the family of their voucher expiration date and extension policies;
- Dedicated landlord liaison for EHV voucher families

BCHA Policy:

The HCoC has agreed to supply a housing search assistance as required. In addition, BCHA has designated the Housing Counselor to provide tenant readiness services and designated the Housing Liaison to be the landlord liaison for EHV voucher families.

Time Limitation on Funding:

Families who receive an EHV are not time limited, however, BCHA is limited in regards to issuance or re-issuance of the voucher.

BCHA may re-issue an EHV to another EHV eligible family upon turnover of a voucher until 9/30/2023. An available turnover voucher cannot be issued on or after 10/01/2023.

If a voucher was not previously issued to a family, BCHA may issue the voucher after 09/30/2023.

Application Waiting List

PIH 2021-15 requires the PHA to enter into Memorandum of Understanding with the local Continuum of Care to provide direct referrals of qualifying individuals and families to the PHA.

The HCV regulations at 24 CFR 982.204(f) provide that the PHA must use a single waiting list for admission to the HCV program. PIH 2021-15 waives this requirement and establishes an alternative requirement under which the PHA must maintain a separate waiting list for EHV referrals/applicants to help expedite the leasing process, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

BCHA Policy:

BCHA will maintain a separate EHV wait list based on referrals from the HCoC and Victim Service Providers (VSP). This will allow BCHA to fully document referrals from both sources and ensure proper prioritization between the sources.

Local Preferences

The PHA, in conjunction with the HCoC and other referral partners, may wish to establish preferences specifically designed for EHV admissions that the PHA would not want to apply to its regular HCV waiting list. Excluding EHV's from the PHA's normally applicable local preference system will simplify EHV administration and ensure that EHV's are not be prioritized based on preferences designed for the broad universe of HCV eligible applicants rather than the subset of EHV qualifying families.

PIH 2021-15 waives 24 CFR 982.207(a) and establishes an alternative requirement that the local preferences established by the PHA for HCV admissions do not apply to EHV's. The PHA may establish separate local preferences for EHV's or may choose to not establish any local preferences for the EHV waiting list.

The PHA may not prohibit EHV admissions from any of the four qualifying categories of eligibility. The PHA may not "hold" a voucher for a future referral of a preference holder.

BCHA Policy:

BCHA and the HCoC have established a preference system in order as follows:

Priority 1 – Homeless

Priority 2 – At risk of homelessness

Priority 3 - Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking

Priority 4 - Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability

Families will be referred using the above priorities in order and will be further prioritized to provide preference to the elderly (Head of Household is age 62 or older at the time of referral) within each category.

The HCoC is responsible for determining whether the family qualifies under one of the four eligibility categories and are encouraged to offer or make connections to supportive services for families that are referred, including, but not limited to, short- or long-term management, collecting necessary verification to support referrals, housing counseling, housing search assistance and utility deposit assistance.

Inapplicability of Income Targeting Requirements

The PHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201, however, the income targeting requirements of section 16(b) of the US Housing Act of 1937 and 24 CFR 982.201(b)(2) are waived and do not apply for EHV families so that PHAs can effectively

serve individuals and families in all the eligibility categories under the ARP who may be a variety of income levels, including low-income families.

Partnerships and Services

As required under PIH 2021-15, BCHA has partnered with the Broward County Continuum of Care for the purpose of receiving referrals for the EHV program. Purpose Built Families Foundations – Operation Sacred Trust has entered into an MOU with BCHA to provide veteran referrals through the HCoC and to provide supportive services to the families they refer. The partnering VSPs will submit direct referrals to the program through BCHA EHV VSP Liaison.

BCHA will utilize the Service Fees provided by the program by:

- Offering Security Deposit assistance on behalf of the family during initial lease up while Service Fee funding for this purpose remains available.
 - The security deposit will be limited to the lesser of two month's rent to owner, the maximum deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner.
 - Funds will be supplied directly to the owner after execution of the Housing Assistance Payment Contract.
 - BCHA will provide a commitment letter to the landlord confirming the approved amount of security deposit assistance
 - Upon moveout, the owner must follow Florida law regarding security deposits and any funds due will be returned to the family by the landlord for use towards a future unit.
- Designate Housing Counseling staff to assist with Tenant-readiness services.
- Designate the Housing Liaison to also serve as the Landlord Liaison (point of contact) for the EHV program landlords. In addition, the Housing Liaison will include EHV in landlord recruitment efforts.
- BCHA may use available service fee funds, while available, to provide essential household items to assist the family at initial move in. Items may include: basic furniture package, household goods, cleaning materials or other items determined necessary through the course of the program start-up.

The Continuum of Care will:

- Provide referrals from designated access points for evaluation of eligibility and preferences established under the program;
- Provide Housing Navigators to provide all Housing Search Services;
- Assist with Landlord recruitment;
- Assist families with lease reviews or link with resource for lease reviews;
- Support individuals and households in completing applications and applying for supportive documentation to accompany admission applications to BCHA;
- Assist eligible households to attend appointments with BCHA which may take place via phone call, online platforms, such as Zoom, or in office;
- Attend EHV participant briefings when needed;
- Link participants with assistance for utility deposits, furnishings, moving expenses, food, cleaning and hygiene items.

Operation Sacred Trust, Nancy J. Cotterman Center and Women in Distress Broward will:

- Support families in completing applications and applying for supportive documentation to accompany admissions application to BCHA (i.e. self-certifications, birth certificate, social security card, etc.);
- Assist eligible households to attend appointments with BCHA which may take place via phone call, in office, or online platforms such as Zoom;
- Provide or refer families for Housing Search Assistance;
- Assist in Landlord/Realtor outreach and recruitment;
- Assist families with lease reviews or link with resource for lease reviews;
- Link participants with assistance for utility deposits, furnishings, moving expenses, food, cleaning and hygiene items.

Service Fees

The EHV program funding includes a one-time service fee to support its efforts in implementing and operating an effective EHV services program. The service fee may be used to provide any or all of the defined eligible uses to assist families to successfully lease units with EHV. Service fees are available until fully expended by BCHA for eligible households or Upon HUD notification to return remaining funds.

The Services Fees fall into four main components:

1. Housing Search Assistance – May include, but is not limited to, helping a family identify and visit potentially available units during their housing search, helping find a unit that meets the household’s disability needs, providing transportation and directions, assisting with the completion of rental applications and PHA forms, and helping expedite the EHV leasing process for the family.
2. Security Deposit/Utility Deposit/Rental Application/Holding Fee Uses.
3. Owner-related uses:
 - a. Owner recruitment and outreach
 - b. Owner incentive and/or retention payments.
4. Other eligible uses:
 - a. Includes Moving expenses (including move-in fees and deposits).
 - b. Tenant-Readiness Services
 - c. Essential Household items
 - d. Renter’s insurance if required by the lease

BCHA will utilize the Service Fees provided by the program by:

- Offering Security Deposit assistance on behalf of the family during initial lease up while Service Fee funding for this purpose remains available.
 - The security deposit will be limited to the lesser of two month’s rent to owner, the maximum deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner.
 - Funds will be supplied directly to the owner after execution of the Housing Assistance Payment Contract.
- BCHA will provide a commitment letter to the landlord confirming the approved amount of security deposit assistance.

- Upon moveout, the owner must follow Florida law regarding security deposits and any funds due will be returned to the family by the landlord for use towards a future unit.
- Designate Housing Counseling staff to assist with Tenant-readiness services.
- Designate the Housing Liaison to also serve as the Landlord Liaison (point of contact) for the EHV program landlords. In addition, the Housing Liaison will include EHV in landlord recruitment efforts.
- Designate the Housing Liaison to provide Housing Search assistance to include education on the housing search process, assisting families identify available units, provide directions, and assist with completion of rental applications and BCHA forms.
- Owner Incentives
 - Owner Lease-up Incentive – An incentive payment in the amount of one month’s contract rent will be sent to an owner that executes a HAP contract for a never previously leased (New Admission) EHV assisted family with an effective date of 10/01/2022 or later.
 - Retention Incentive – An incentive payment in the amount of one month’s contract rent will be sent to an owner that renews with an EHV assisted family for renewals effective 9/1/2022 or later.
 - Owners who owe money to BCHA are ineligible for either incentive.
- BCHA may use available service fee funds, while available, to provide essential household items to assist the family at initial move in. Items may include: basic furniture package, household goods, cleaning materials or other items determined necessary through the course of the program start-up.

A. FAIR HOUSING AND EQUAL OPPORTUNITY

BCHA will follow procedures outlined in Chapter 2 (Fair Housing and Equal Opportunity)

B. ELIGIBILITY CRITERIA FOR ADMISSION

The population eligible to be assisted with EHV funding are individuals and families who meet one of the four categories below:

1. Homeless;
2. At risk of homelessness;
3. Fleeing or attempting to flee, domestic violence, dating violence sexual assault, stalking, or human trafficking;
4. Or recently homeless and for whom providing rental assistance will prevent the family’s homelessness or having high risk of housing instability.

Definitions of homeless and at risk of homelessness are as defined in McKinney Vento (same as utilized for HCOC programs, except chronic homelessness is not a requirement).

BCHA will utilize procedures outlined in Chapter 4 (Applications, Waiting List and Tenant Selection) to determine HCV eligibility.

The EHV program is limited in grounds for denial of assistance as listed in Section K. Denial or Termination of Assistance.

C. SELECTION OF FAMILIES

BCHA has established local preferences specifically for the Emergency Housing Program.

- Priority 1 Homeless
- Priority 2 At risk of homelessness
- Priority 3 Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking
- Priority 4 Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

Families will be prioritized in the above order and will be further prioritized to provide preference to the elderly (Head of Household is age 62 or older at the time of referral) within each category.

D. BRIEFING OF FAMILIES

BCHA will utilize procedures outlined in Chapter 5 (Briefing and Voucher Issuance).

Initial Search Term (Waiver)

24 CFR 982.303(a) requires the initial search term must be at least 60 days. PIH 2021-15 waives this requirement and establishes an alternative requirement that the initial term for an EHV must be at least 120 days. Any extensions, suspensions, and progress reports will remain under the policies in the PHA administrative plan but will apply after the minimum 120-day initial search term.

BCHA Policy:

EHV voucher holders will be provided with an initial 120 days search time upon voucher issuance.

E. INCOME AND SUBSIDY DETERMINATION

BCHA will utilize procedures outlined in Chapter 6 (Income and subsidy determination).

F. VERIFICATION

BCHA will utilize procedures outlined in Chapter 7 (Verification).

Income Verification at admission

24 CFR 982.201(e) requires that the PHA must receive information verifying that an applicant is eligible within the 60-day period before the PHA issues a voucher to the applicant. For verification purposes, PIH 2018-18 states that third-party generated documents be dated within 60 days of the PHA's request.

PIH 2021-15 waived the third-party income verification requirements for EHV applicants and allows PHA's to consider self-certification as the highest form of income verification at admission.

Applicants must submit an affidavit attesting to reported income, assets, expenses and other factors which would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation which represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request. For example, a Supplemental Security Income (SSI) benefit letter issued in November 2020 representing the 2021 benefit amount provided to the PHA in September 2021 would be an acceptable form of income verification.

BCHA Policy:

BCHA will utilize procedures outlined in Chapter 7 (Verification).

If it has been determined by BCHA that third-party verification is unavailable or cannot be obtained in a reasonable time frame (ten calendar days), BCHA will accept self-certification to attest to income, assets, expenses and other factors which would affect an income eligibility determination.

BCHA will accept third-party documentation from the Social Security Administration, pension and other similar benefit income sources which represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request as described above.

For example, the most current Social Security annual notice of benefit amount could be utilized to verify and anticipate the individual's income for that benefit.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search. They PHA may be required to deny assistance to household members already receiving assistance from another program.

Eligibility Determination: Social Security Number and Citizenship Verifications (Waiver)

HCV applicants must disclose and document and PHAs must verify the social security numbers (SSN) of each applicant. Generally, a PHA may not admit an applicant until the required documentation is provided to verify the SSN of each household member.

PHAs must also verify evidence of US citizenship or eligible immigration status for noncitizens claiming eligibility for assistance. Each eligible household member must sign a declaration of their status and eligible noncitizens must also provide supporting documentation, which must be submitted by the time of the eligibility determination.

Additionally, PHAs must verify each member's date of birth to verify identity and determine age and disability status per 24 CFR 5.403, if claimed.

PIH 2021-15 allows PHAs to waive the requirement to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. PHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during initial eligibility determination.

PHA's may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

BCHA Policy:

BCHA has not adopted this waiver and will follow procedures outlined in Chapter 7 (Verifications).

Use of recently conducted initial income determinations and verifications at admission (waiver)

Some families who were recently homeless but are now currently residing in rapid rehousing or are receiving other time-limited housing assistance may have had their income recently verified under that housing assistance program. Further, families who are victims of domestic violence, dating violence, sexual assault, stalking or human trafficking may be currently assisted through other subsidized programs such as public housing. PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as the income was (1) calculated in accordance with rules outlined in 24 CFR Part 5 and within the last six months and (2) the family certifies there has been no change in income or family composition in the interim. At the time of the family's annual reexamination, the PHA must conduct the annual reexamination of income as outlined in 24 CFR 982.516.

BCHA Policy:

BCHA has not adopted this waiver and will follow procedures outlined in Chapter 7 (Verifications).

G. HOUSING QUALITY STANDARDS AND RENT REASONABLENESS

BCHA will utilize the procedures outlined in Chapter 8 (Housing Quality Standards and Rent Reasonableness Determination).

Pre-Inspection of HQS Units (Waiver)

PIH 2021-15 allows PHAs to pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units. If an EHV family selects a unit that passed a HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (RFTA) the unit may be approved as long as it meets all other conditions under 24 CFR 982.305. The family must be free to select their unit and cannot be required to accept a pre-screened unit.

BCHA Policy:

BCHA will not pre-inspect units.

If an EHV family selects a unit that passed HQS in the last 45 days, and no one has moved into the unit during that time, BCHA may approve the unit providing it meets all requirements under 24 CFR 982.305.

H. LEASING

BCHA will utilize the procedures outlined in Chapter 9 (General Leasing Policies) and Chapter 16 (Program Administration).

Initial Lease Term (Waiver)

Under the HCV program, the family must enter into an initial lease with the owner for at least one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice. PIH 2021-15 waives this requirement and the initial lease term for an EHV family may be less than 12 months regardless of whether the shorter term is a prevailing market practice.

Payment Standard Amounts

24 CFR 982.503(a)(3) requires that the PHA voucher payment standard schedule shall establish a single payment standard amount for each unit size, and that for each unit size, the PHA may establish a single payment standard for the whole Fair Market Rent (FMR) area, or may establish a separate payment standard amount for each designated part of the FMR.

PIH 2021-15 waives this requirement and establishes an optional alternative requirement to establish a separate higher payment standard for EHV's to increase the pool of available units for EHV families.

BCHA Policy:

BCHA will utilize the HCV Small Area Fair Market Rent (SAFMR) Payment Standards

24 CFR 982.503(b)(1)(i) is waived and an optional alternative requirement allows the PHA to establish a payment standard for a unit size at any level between 90 and 120 percent (as opposed to 110%) of the published FMR for that unit size. HUD approval is not required to establish an EHV payment standard in that range.

BCHA Policy:

BCHA will utilize the HCV SAFMR Payment Standards.

Increase in Payment Standard during the HAP contract Term

24 CFR 982.505(c)(4) require that if the payment standard amount is increased during the term of the HAP contract, the increased payment standard amount shall be used to calculate the housing

assistance payment for the family beginning the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

This requirement is waived under PIH 2021-15 and provides the PHA with the discretion to establish a policy in the PHA administrative plan on when to apply the increased payment standard (e.g. Interim reexamination, owner rent increase), after the effective date of the increase in the payment standard amount, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

BCHA Policy:

BCHA will utilize procedures outlined in Chapter 6 (Income and Subsidy Determinations)

I. MOVES WITH CONTINUED ASSISTANCE AND PORTABILITY

Moves within BCHA jurisdiction

BCHA will utilize the procedures outlined in Chapter 10 (Moving with continued assistance and Portability).

Portability

BCHA will utilize the procedure outlined in Chapter 10 (Moving with continued assistance and Portability) with the following exceptions:

1. No prohibition on portability for non-resident applicants
 - a. Under HCV, if neither the Head nor spouse of an assisted family already had 'domicile' (legal residence) in the jurisdiction of the PHA at the time the family first submits an application for participation in the program, the family does not have right to portability during the 12-month period from when the family is admitted to the program. PIH 2021-15 waives this requirement, Section 8(r)(1)(B)(i) of the US Housing Act of 1937 and 24 CFR 982.353. The PHA may not restrict an EHV family from exercising portability because they are a non-resident applicant.
2. Portability billing and absorption

A receiving PHA (RHA) cannot refuse to assist an incoming EHV family, regardless of whether the PHA does or does not currently administer EHV under its own ACC.

If the EHV family moves under portability to another PHA that administers EHV under its own ACC:

- The RHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher to do so).
 - If the PHA does not have an EHV to absorb the family, it must bill the Initial PHA (IHA).
 - The RHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases a unit.

- Regardless if the receiving PHA absorbs or bills the IHA for the EHV assistance, the EHV administration of the voucher is in accordance with the RHA's EHV policies.
 - If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the RHA may absorb the family into its regular HCV program or may bill the IHA.
3. Family Briefing/initial PHA and receiving PHA coordination on services

In addition to applicable family briefing requirements, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing.

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family. The purpose of this communication is to ensure there is no duplication of EHV services and assistance to the family and that the receiving PHA is aware of the maximum amount of service fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

4. EHV portability – HAP and EHV administrative fees
- a. The requirements of 24 CFR 982.355(e) apply to portability arrangements on behalf of an EHV family
 - i. The IHA must promptly reimburse the RHA for the full amount of housing assistance made by the receiving PHA for the family;
 - ii. The IHA must promptly reimburse the RHA for the lesser of 80% of the IHA's EHV ongoing administrative fee or 100% of the RHA's ongoing administrative fee or the RHA's EHV ongoing administrative fee if the RHA administers the program.
 - b. Service Fee funding
 - i. If the RHA, in consultation and coordination with the IHA, will provide eligible services or assistance to the incoming EHV family the RHA may be compensated for those costs by the IHA. This is the case regardless of whether the RHA bills the IHA or absorbs the family into its own program at lease up.
 - ii. If the RHA administers EHV's under its CACC, the RHA may use its own service fees and may be reimbursed by the IHA or the IHA may provide the service funding upfront to the receiving PHA for those fees and assistance.
 - iii. If the RHA does not administer EHV's under its CACC, the IHA must provide service fee funding upfront to the RHA. Any amounts unused must be promptly returned to the IHA. The amount of the service fee provided by the IHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the RHA or \$1750, unless the IHA and RHA mutually agree to change the \$1750 cap.

5. Placement fee/issuance reporting fee:

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the RHA receives the full amount of the placement component of the placement/issuance reporting fee. The RHA is eligible for the placement fee regardless of whether the RHA bills the IHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee as applicable.

The entire preliminary fee is always paid to and retained by the IHA and is not impacted by the EHV portability move.

J. REEXAMINATIONS AND INTERIM CHANGES

BCHA will utilize the procedures outlined in Chapter 11 (Reexaminations)

K. DENIAL OR TERMINATION OF ASSISTANCE

24 CFR 982.552 and 982.553 which covers the grounds under which a PHA may deny an applicant admission to the program and certain cases where it is required to do so. PIH 2021-15 waives these grounds and establishes alternative requirements with respect to mandatory and permissive prohibitions of admission for EHV participants.

Denial of Assistance:

982.552 and 982.553 have been waived and alternative requirements provided:

Mandatory Prohibitions

- Must apply 982.553(a)(1)(ii)(C) related to conviction of drug-related crimination activity for manufacture or production of methamphetamine on premises of federally assisted housing
- Apply 982.553(a)(2)(i) prohibiting any member that is a registered lifetime sex offender

Permissible – may or may not deny admission for:

- Violent criminal activity or other criminal activity in last 12 months (see notice for full wording)
- Fraud bribery or corrupt or criminal act in connection with Federal housing in the last 12 months
- Engaged in or threatened abusive or violent behavior toward PHA personnel in last 12 months

Determinations must be made based on an individualized assessment of relevant mitigating information.

BCHA Policy:

BCHA will deny EHV applicants based on all permissible and mandatory grounds listed in this section.

Prohibited Denial Reasons

Unlike regular HCV admissions, PHA's may not deny an EHV applicant admission for:

- Eviction from federally assisted housing
- Owes money to PHA or another PHA
- Has not reimbursed any PHA for amounts paid to and owner under HAP contract for rent damages to unit or other amounts owed.
- Breached an agreement with PHA to pay amounts owed
- Alcohol abuse standards established by the PHA in accordance with 24 CFR 553(a)(3)
- Currently engaged in or has engaged in during a reasonable time frame before the admission, drug-related criminal activity

Termination of Assistance

BCHA Policy:

BCHA will utilize procedures outlined in Chapter 12 (Denial or Termination of Assistance).

L. OWNERS

BCHA will utilize the procedures outlined in Chapter 13 (Owners)

M. PROGRAM INTEGRITY

BCHA will utilize the procedures outlined in Chapter 14 (Program Integrity).

N. GRIEVANCE PROCEDURES

BCHA will utilize the procedures outlined in Chapter 16 (Program Administration).

PART IX: FOSTER YOUTH TO INDEPENDENCE INITIATIVE

INTRODUCTION

The Foster Youth to Independence (FYI) initiative provides Housing Choice Vouchers (HCV) to eligible youth through Family Unification Program funding. The FYI voucher may only use to provide housing assistance to eligible youth for a maximum of thirty-six (36) months. If no subsidy (HAP) is being paid on behalf of the youth, that period of time does not count under the thirty-six (36) month limitation. The Fostering Stable Housing Opportunity amendment was issued January 24, 2022 in Federal Register Vol. 87, No. 15 and is effective April 25, 2022, which allows additional time, beyond the thirty-six (36) months in certain circumstances. These circumstances are outlined in the Time Limitations section.

BCHA has partnered with the local Public Child Welfare Agency (PCWA), ChildNet Inc to identify eligible Youth, certify that the youth is eligible, and provide supportive services for a period of thirty-six (36) months. Supportive Services include:

- 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, mental and behavioral health services)
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance for security deposits, utility hook-up fees, and utility deposits
- Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher
- Job preparation and attainment of counseling (where to look, how to apply, dress, grooming, and relationships with supervisory personnel)
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED); attendance/financing of education at a technical school, trade school or college; including successful work ethic and attitude models

Any referrals generated by another organization must go through and be certified by the PWCA that the youth meet eligibility requirements under the program.

Should a youth fail to use a voucher or at turnover of voucher, BCHA may issue the voucher to another eligible youth if one has been identified.

Line 2N of the HUD-5008 must reflect FYI for all households assisted under this program.

A. FAIR HOUSING AND EQUAL OPPORTUNITY

BCHA will follow procedures outlined in Chapter 2 (Fair Housing and Equal Opportunity)

B. APPLICATION WAITING LIST

The FYI program relies on referrals from the partner agency, ChildNet. As such, BCHA must maintain one waiting list for all tenant-based assistance (24 CFR 982.204(f)), upon receipt of referral(s) from the PCWA, the names will be compared to names already on the HCV waiting list. Any youth that matches with the PCWA's referral must be assisted in order of their position on the waiting list in accordance with admission policies outlined in Chapter 4 (Applications, Waiting List and Tenant Selection).

Any youth certified as eligible by the PCWA and is not on the HCV waiting list, must be placed on the waiting list (pending HCV eligibility determination). In order to do so, BCHA must open the waiting list to accept the FYI eligible youth without opening the waiting list for other applicants.

C. ELIGIBILITY CRITERIA FOR ADMISSION

The population eligible to be assisted with FYI funding are youth certified by the PCWA as meeting the following conditions:

- Has attained 18 years and not more than 24 years of age;
- Left foster care, or will leave foster care within ninety (90) days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act; and
- Is homeless or is at risk of becoming homeless at age 16 or older.

Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance under this program providing they otherwise meet eligibility requirements.

Youth must be no more than twenty-four (24) years old at the time of initial HAP execution.

Once eligible, participants do not "age out" of eligibility as long as the family was eligible on the day it was first assisted under a HAP contract. (FYI Questions and Answers 10/20/2020)

BCHA will utilize procedures outlined in Chapter 4 (Applications, Waiting List and Tenant Selection) to determine HCV eligibility.

Ineligible income sources

Extended Foster Care (EFC)

Youth participating in the title IV-E foster care program are entitled to receive or have paid on their behalf a title IV-E foster care maintenance payment to cover the cost of food, clothing, and shelter among other costs. Supplementing title IV-E foster care with the housing assistance is not permitted under this resource. (FYI Questions and Answers 10/20/2020)

Postsecondary Education Service and Support (PESS)

PESS is a state program for eligible foster youth that may receive monthly financial payments that may include Education and Training Voucher (ETV) funding. The financial award is to secure

housing, utilities, and assist with the cost of living while attending a Florida Bright Futures eligible postsecondary educational institution. Supplementing these funds with housing assistance is not permitted under this resource.

TIME LIMITATIONS

The FYI Voucher may only be used to provide housing assistance to eligible youth for a maximum of thirty-six (36) months. If no subsidy (HAP) is being paid on behalf of the youth, such as when searching for a unit, that period does not count toward the thirty-six (36) month limitation.

Youth will sign a confirmation that they understand the Housing Assistance Payments are limited to a maximum thirty-six (36) months.

BCHA may not transfer a regular HCV youth to the FYI program as the housing need has already been addressed by the HCV assistance. (FYI Questions and Answers 10/20/2020)

If the youth is otherwise program eligible but left the program before receiving thirty-six (36) months of assistance, they may be re-admitted to the program. The re-admitted youth would only be eligible for the time remaining from the last admission. For example, if the youth left after twelve (12) months of assistance, at re-admission, the youth would only have twenty-four (24) months available to them for a total of thirty-six (36) months.

For youth that first leased a unit where the effective date of the HAP contract is after December 27, 2020, an extension of assistance is available as discussed in M. Fostering Stable Housing Opportunities (FSHO) Amendments.

D. SELECTION OF FAMILIES

The order of selection is based on BCHA's system of date and time of application.

E. REMOVAL FROM WAIT LIST AND PURGING

BCHA will utilize procedures outlined in Chapter 4 (Applications, Waiting List and Tenant Selection).

F. BRIEFING OF FAMILIES

BCHA will utilize procedures outlined in Chapter 5 (Briefing and Voucher Issuance).

In addition to the procedures outlined in Chapter 5, the following items will be included in the briefing:

- FSHO requirements for receiving an extension of assistance
- Instructions on how to apply for the FSS waiting list
- A list of supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services

G. INCOME AND SUBSIDY DETERMINATION

BCHA will utilize procedures outlined in Chapter 6 (Income and subsidy determination).

H. VERIFICATION

BCHA will utilize procedures outlined in Chapter 7 (Verification).

I. REEXAMINATIONS AND INTERIM CHANGES

BCHA will utilize procedures outlined in Chapter 11 (Reexaminations)

J. HOUSING QUALITY STANDARDS AND RENT REASONABLENESS

BCHA will utilize the procedures outlined in Chapter 8 (Housing Quality Standards and Rent Reasonableness Determination).

K. LEASING

BCHA will utilize the procedures outlined in Chapter 9 (General Leasing Policies) and Chapter 16 (Program Administration).

L. MOVES AND PORTABILITY

Moves within BCHA jurisdiction

BCHA will utilize the procedures outlined in Chapter 10 (Moving with continued assistance).

Portability

The FYI Voucher is handled the same way as a regular HCV, so BCHA may not restrict or deny portability for a FYI participant for reasons other than those specified in HCV program regulations. BCHA will follow procedures as outlined in Chapter 10 (Moving with Continued Assistance and Portability).

The FYI participant does not have to move to a jurisdiction that administers Family Unification Program or FYI. The referring community would no longer have an obligation to offer supportive services.

The Receiving 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, that youth become a regular HCV participant without the limitations of the FYI program. In such case, the FYI voucher would be made available to the next eligible youth.

If the Receiving PHA does not absorb the family and bills the initial PHA, both PHAs must work together to initiate termination of assistance upon the expiration of the thirty-six (36) month limit. Further, the Receiving PHA must retain code FYI in line 2N of the HUD-50058.

M. FOSTERING STABLE HOUSING OPPORTUNITIES (FSHO) AMENDMENTS

For youth that first leased a unit where the effective date of the HAP contract is *after* December 27, 2020 an extension of assistance may be available under the Fostering Stable Housing Opportunities (FSHO) amendments.

The Fostering Stable Housing Opportunities (FSHO) amendments require all FYI participants who entered into their first lease after December 27, 2020 to be notified of the availability and the requirements they must meet to receive such an extension.

FSHO does not restart or otherwise impact the initial 36-month time limit but it does make FYI youth eligible for an extension of assistance of up to 24 months. The maximum time permitted under FSHO is 60- months (initial 36 months plus extension of 24 months).

Eligibility Criteria for 24-month extension beyond the initial 36-month limit under FSHO:

- An eligible youth who is participating in the Family Self-Sufficiency (FSS) Program:
 - Youth must sign the FSS Contract of Participation during the initial 36-month time limit and comply with the requirements of the FSS program.
 - If the FSS program is unable to offer the FYI an FSS slot during the first 36-months, the youth is considered “unable to enroll” and may have the voucher extended by meeting the education, workforce development, or employment requirements discussed below.
 - If an FSS slot becomes available between the 36-48 month mark, BCHA must offer the slot to a FYI youth who had their voucher extended due to other criteria even if the youth declined the FSS slot because they met one of the statutory exceptions. If the youth accepts the slot, FSS staff must work with the youth to develop a Contract of Participation and Individual Training and Service Plan that can be accomplished within the time period left of the FYI voucher.
 - BCHA may offer FYI youth an FSS slot during the 48-60 month but is not required to as the youth has already received the second and final extension under FSHO
 - BCHA may provide the FYI youth with a preference on the FSS waitlist.
 - BCHA Policy
 - BCHA will not offer an FYI Youth an FSS slot during the 48-60 month extension of housing assistance
 - The Family Self-Sufficiency Action Plan does not currently have a preference for FYI youth
- If the youth is unable to enroll in FSS during the first 36-months of assistance, the youth may be able to receive an extension of FYI assistance for up to two successive 12-month periods beyond the initial 36-months provided that the youth has:
 - Education: Engaged in at least one education, workforce development, or employment activity below for not less than 9 months of the preceding 12-months. Youth may combine the time between eligible activities (example, completed credentialing for 3 months and obtained work for 6 months):

- Education requirements:
 - The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or equivalent
 - The youth was enrolled in an “institution of higher education”, as defined in the Higher Education Act of 1965 or an institution that meets the definition of a “proprietary institution of higher education: or a “post-secondary vocational institution: under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965.
- Workforce Development: Youth was participating in a career pathway, as defined in section 3 of the Workforce Innovation and Opportunity Act (29 USC 3102)
- Employment: The youth was employed

Extension of Assistance Exceptions

A FYI youth will be entitled to receive an extension of their FYI assistance for up to 24 months beyond the 36-month time limit if they certify that they meet one of the exceptions below:

- The FYI youth is a parent or other household member responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person.
 - A youth may submit this certification even if the child under 6 years old only resides in the household part-time such as with a shared custody arrangement or does not live in the household but the youth is responsible for their care.

BCHA Policy:

- The youth will complete the Extension of Assistance form; and
 - If the child under the age of 6 is not part of the household, the youth will provide a copy of the shared custody arrangement
- A youth may submit this certification even if the incapacitated person does not live in the household so long as they are responsible for the care of the person.

BCHA Policy:

- The youth will complete the Extension of Assistance form; and
- The youth will supply the name and address of the incapacitated person, court documentation confirming incapacitation and the role the youth plays in the person’s care

- The FYI youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

BCHA Policy:

- The youth will complete the Extension of Assistance form; and
- The youth will provide a letter or other documentation from the drug addiction or alcohol treatment and rehabilitation program.

- The FYI youth is a person who is incapable of complying with the requirement to participate in the FSS program or unable to participate in education, workforce development or employment activities due to a documented medical condition. HUD encourages Housing Authorities to apply this exception in a manner that provides extensions of FYI assistance to the broadest population possible consistent with the requirements.

BCHA Policy:

- The youth will complete the Extension of Assistance form; and
- The youth will provide documentation from a State of Florida physician confirming the youth has a medical condition which results in the youth being incapable of participation in these activities.

An FYI youth that meets one of these exceptions must still be offered an opportunity to enroll in FSS (if it is available to them) and receive any supportive services available to FYI youth.

The FYI youth may choose to participate in education, workforce development, or employment activities even if they meet one of these statutory exceptions.

BCHA must verify eligibility for the extension annually at the end of the 36 and 48-month period. As BCHA begins the annual reexamination process 120 days in advance of the lease renewal, the FYI youth will be notified prior to the 120-day period, in writing, to notify them of the available extensions and process for requesting such extension. Eligibility must be established prior to beginning the annual reexamination process.

Due to timing of when BCHA verifies compliance and conducts the annual reexamination, those youth who are applying for an extension based on education, employment and workforce development may be able to demonstrate that they will meet the 9-month requirement as of the end of the 36- or 48- month time period. In such case they are considered having met the requirement.

BCHA Policy:

- If the youth is on the Family Self-Sufficiency program, confirmation will be made that the youth is compliant with the FSS program requirements and has not been terminated from FSS.
 - BCHA will accept an e-mail from the FSS Manager as confirmation.
- Education, Workforce Development, or employment
 - BCHA will accept a transcript, letter from the registrar, letter from Workforce Development program, employment verification letters, forms or other records that may document enrollment periods and/or participation
- Exceptions
 - BCHA will utilize verifications as listed under Extension of Assistance Exceptions

The youth does not have to meet the same statutory condition when they reach the end of the 48-month time-period. They may demonstrate they meet another condition in order to receive an

extension of assistance. For example, at the 36-month eligibility the youth was responsible for the care of child under 6. At 48-months, the child is 6 years old but the youth documents eligibility under a different condition.

If the youth does not meet any statutory conditions and the youth is subject to the 36-month time limit or the time limit of any extension the youth has already received, the FUPY-FYI voucher must be terminated once the youth has reached 36 months. Such termination includes the right to request an informal hearing using procedures outlined in Chapter 16 of the Administrative plan.

BCHA Policy:

Participants will be notified of this opportunity at the following times:

- All new FYI participants will be notified during the voucher briefing of this opportunity.
- FYI participants will be reminded of the opportunity after completing 24 months of housing subsidy.
- Further, FYI participants will be provided with the certification form and verification requirements prior to the annual reexamination that occurs prior to the 36-month and 48-month expiration. If the participant wishes to apply for an extension, they must complete and return the certification form and verification within 15 business days.

Definitions:

Incapacitated Person – Florida Statutes section 744.102 (12) defines incapacitated as a judicial determination that a person lacks capacity to manage at least some of the person’s property or to meet at least some of the person’s essential health and safety requirements.

Recognized Post-Secondary credential – Defined under the Workforce Innovation and Opportunity Act (WIOA) as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State or Federal Government, an associate or baccalaureate degree.

Secondary school diploma or its equivalent – Under WIOA, a secondary school diploma or alternate diploma recognized by the State and is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA) and amended by Every Student Succeeds Act (ESSA). This would include a high school diploma or General Equivalency Diploma (GED).

Unable to enroll – BCHA has an FSS program but the youth has not been offered an FSS slot during the 1st 36-month of receiving FYI assistance.

N. DENIAL OR TERMINATION OF ASSISTANCE

BCHA will utilize procedures outlined in Chapter 12 (Denial or Termination of Assistance).

O. OWNERS

BCHA will utilize the procedures outlined in Chapter 13 (Owners)

P. PROGRAM INTEGRITY

BCHA will utilize the procedures outlined in Chapter 14 (Program Integrity).

Q. GRIEVANCE PROCEDURES

BCHA will utilize the procedures outlined in Chapter 16 (Program Administration).