Plymouth Housing and Redevelopment Authority

ADMINISTRATIVE PLAN

FOR THE

HOUSING CHOICE VOUCHER PROGRAM

Adopted by the HRA Board of Commissioners: November 17, 2011
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Introduction

ABOUT THE REFERENCES CITED IN THE PLYMOUTH HOUSING AND REDEVELOPMENT AUTHORITY ADMINISTRATIVE PLAN

AUTHORITIES IN THE ADMINISTRATIVE PLAN

Authority for Plymouth HRA policies is derived from many sources. Primary among these sources are regulations and guidance issued by HUD. State law also directs HRA policy. State law must be followed where such law exists and does not conflict with federal regulations. In the absence of legal requirements or HUD guidance, industry practice may lead to HRA policy.

RESOURCES CITED IN THE ADMINISTRATIVE PLAN

This administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations.

Abbreviations

Throughout this administrative plan, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations and resources cited in the administrative plan.

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001.
HUD-50058 IB	HUD-50058 Instruction Booklet
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004.
HB 4350.3	Occupancy Requirements of Subsidized Multifamily Housing Programs

Resources and Where to Find Them

Resources helpful to the HRA or referenced in the administrative plan can be located at the following sites:

Guidebooks, handbooks, regulations and other HUD resources can be found on the HUD website located at http://www.hud.gov/

Published PIH Notices may be found at:
https://www.hud.gov/program_offices/public_indian_housing/publications/notices

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Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

This chapter contains information about the HRA 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 Plymouth Housing and Redevelopment Authority (HRA). This part includes a description of the HRA, 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 HRA

1-I.A. OVERVIEW

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

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

The Section 8 tenant-based Housing Choice Voucher (HCV) program is funded by the federal government and administered locally by the Plymouth HRA. The jurisdiction includes the city of Plymouth, Minnesota.

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

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

The principal staff member of the HRA is the Executive Director, hired and appointed by the City Manager. The Executive Director is directly responsible for carrying out the policies established by the Commissioners and is delegated the responsibility for hiring, training, and supervising the remainder of the HRA's staff in order to manage the day-to-day operations of the HRA 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. HRA MISSION

The Plymouth HRA will promote and assist in the creation and maintenance of a variety of affordable, life-cycle housing opportunities for low and moderate income persons. It will encourage Plymouth's economic vitality through its active participation in the city's development and redevelopment activities.

HRA Policy

The HRA's mission is to improve the lives of Plymouth residents through affordable housing and community development.

1-I.D. THE HRA'S PROGRAMS

The following programs are included under this administrative plan:

HRA Policy

The HRA's administrative plan is applicable to the operation of the Housing Choice Voucher program. In addition, the administrative plan addresses policies for the Project Based Assistance program.

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

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

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational, and other human services needs.
- Promote fair housing and the opportunity for very low income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity and encourages private property owners to rent to very low income families.

- Promote a market-driven housing program that will help qualified low income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the HRA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the HRA's support systems and commitment to our employees and their development.

The HRA 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 audience in understanding the program.

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

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

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

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

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

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation. 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. The HRA is afforded choices in the operation of the program which are included in the HRA's administrative plan, a document approved by the Board of Commissioners of the HRA.

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

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

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The HRA continues to make payments

to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

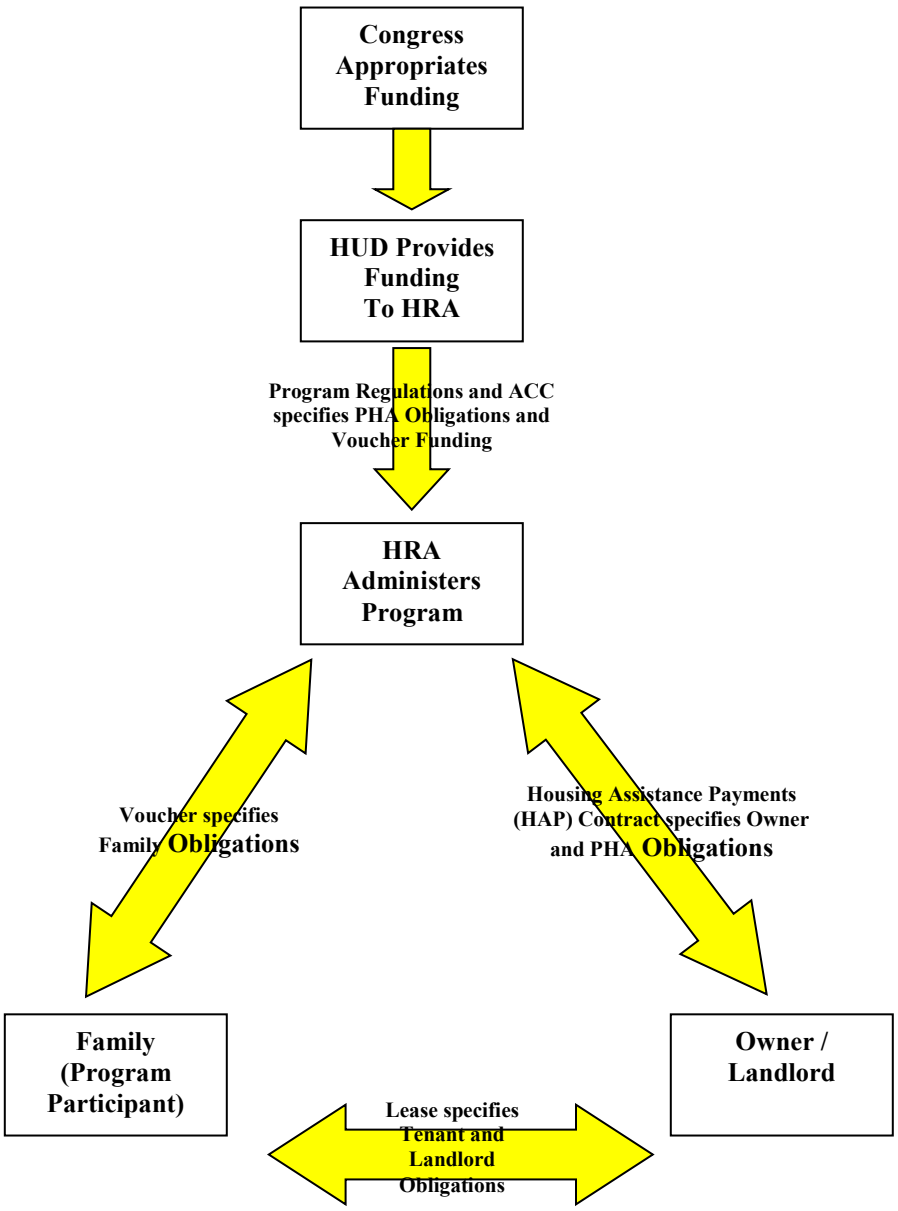
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, the HRA enters into a contractual relationship with HUD. The HRA 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, the HRA, 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 HRA;
- Provide technical assistance to HRA on interpreting and applying HCV program requirements; and
- Monitor HRA compliance with HCV program requirements and HRA performance in program administration.

What does the HRA do?

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

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

What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
  - The HRA 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, and 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 the HRA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?

The family has the following responsibilities:

- Provide the HRA with complete and accurate information, determined by the HRA to be necessary for administration of the program;
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
- Attend all appointments scheduled by the HRA;
- Allow the HRA 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 the HRA 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 (except under the Homeownership option);
- Promptly notify the HRA of any changes in family composition and income;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled effectively.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Voucher Program
- 24 CFR Part 985: Section 8 Management Assessment Program

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 the HRA's agency plan. This administrative plan is a supporting document to the PHA agency plan, and is available for public review as required by 24 CFR Part 903.

This administrative plan is set forth to define the HRA's local policies for operation of the housing programs in the context of federal laws and regulations. All issues related to Section 8 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.

The HRA is required by regulation to comply with the policies in the administrative plan. The HRA 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 HRA staff shall be in compliance with the city's personnel policy and HUD's Section 8 regulations as well as all federal, state, and local fair housing laws and regulations.

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

HUD regulations contain a list of what must be included in the administrative plan. The HRA administrative plan must cover HRA policies on these subjects:

- Selection and admission of applicants from the HRA waiting list, including any HRA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the HRA waiting list (Chapter 4);
- Issuing or denying vouchers, including HRA policy governing the voucher term and any extensions or suspensions of the voucher term. "Suspension" means stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the HRA decides to allow extensions or suspensions of the voucher term, the HRA administrative plan must describe how the HRA determines whether to grant extensions or

suspensions, and how the HRA determines the length of any extension or suspension (Chapter 5);

- Any special rules for use of available funds when HUD provides funding to the HRA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a "family," definition of when a family is considered to be "continuously assisted," standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the HRA of amounts the family owes the HRA (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);
- HRA screening of applicants for family behavior or suitability for tenancy (Chapter 3);

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

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

Following HUD guidance, even though it is not mandatory, provides the HRA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If the HRA 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 the HRA should carefully think through those decisions.

1-III.C. ORGANIZATION OF THE ADMINISTRATIVE PLAN

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

1-III.D. UPDATING AND REVISING THE ADMINISTRATIVE PLAN

The HRA 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.

HRA Policy

The HRA will review and update the plan at least annually or more often as needed to reflect changes in regulations, HRA operations, or when needed to ensure staff consistency in operation.

The HRA Board has authorized staff to make minor modifications (typographical changes; changes to update PIH Notices; and, any mandatory changes that require immediate action) to the Administrative Plan without board approval.

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring HRAs 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 HRA's Housing Choice Voucher (HCV) operations.

This chapter describes HUD regulations and HRA 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 HRA 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 (HUD) 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 HRA 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 the HRA to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. State law prohibits discrimination in housing on the basis of race, color, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance. The HRA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973

- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Violence Against Women Reauthorization Act of 2013 (VAWA)
- The Equal Access to Housing in HUD Programs regardless of sexual orientation of Gender Identity Final Rule, published in the Federal Register February 3, 2012 and further clarified in Notice PIH 2014-20
- Affirmatively further fair housing by:
    1) Examining its programs or proposed programs,
    2) Identifying any impediments to fair housing choice within those programs,
    3) Address those impediments in a reasonable fashion in view of the resources available,
    4) Work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement, and
    5) Maintain records reflecting these analyses and actions, with some limited exceptions found in 24 CFR 903.2(b)(2)

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as HRA policies, can prohibit discrimination against additional classes of people.

The HRA shall not discriminate because of race, color, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance (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.

The HRA will not use any of these factors to:

- Deny any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program;
- Provide housing that is different from that provided to others;
- Subject anyone to segregation or disparate treatment;
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program;
- Treat a person differently in determining eligibility or other requirements for admission;
- Steer an applicant or participant toward or away from a particular area based on any of these factors;
- Deny anyone access to the same level of services;
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral

part of the housing program;

- Discriminate in the provision of residential real estate transactions;
- Discriminate against someone because they are related to or associated with a member of a protected class; or
- 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 HRA 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 HRA 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, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance in connection with the contract.

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the HRA or an owner, the family should advise the HRA. HUD requires the HRA 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 HRA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

HRA Policy

Information will be made available during the family briefing session, and all applicable Fair Housing information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet.

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

The HRA will attempt to remedy discrimination complaints made against the HRA.

The HRA 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 DISABIILTIES

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 is necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

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

HRA Policy

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of his or her disability before the HRA will treat a person differently than anyone else.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

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

Types of Reasonable Accommodations

When needed, the HRA must modify normal procedures to accommodate the needs of a person with disabilities. Examples include but are not limited to:

- Permitting applications and reexaminations to be completed by mail
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the HRA determines this is necessary to enable a person with disability to obtain a suitable housing unit
- Conducting home visits
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with HRA staff

2-II.C. REQUEST FOR AN ACCOMMODATION

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

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

If the need for the accommodation is not readily apparent or known to the HRA, 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.

HRA Policy

The HRA will require the family to make its request in writing using a reasonable accommodation request form. However, the HRA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

The HRA may not waive a federal regulation as a reasonable accommodation unless explicitly authorized within the regulations. The HRA's authority with respect to reasonable accommodation is limited to areas of policy and procedural discretion.

2-II.D. VERIFICATION OF DISABILITY

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

Before providing an accommodation, the HRA must determine that the person meets the definition of a person with a disability, and that the accommodation is necessary to afford the family an equal opportunity to access the HRA's programs and services.

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

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the HRA, the HRA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the HRA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The HRA must request only information that is necessary to evaluate the disability-related need for the accommodation. The HRA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

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

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

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

HRA Policy

After a request for an accommodation is presented, the HRA will respond, in writing within ten (10) days.

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

If the HRA believes that the family has failed to identify a reasonable alternative accommodation after the interactive discussion and negotiation, the HRA will notify the family of its determination. The HRA will offer the family the right to an Informal Hearing if the condition of the reasonable accommodation request is an item eligible for an Informal Hearing per federal regulation.

2.II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

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

At the initial point of contact with each applicant, the HRA shall inform all applicants of

alternative forms of communication that can be used other than plain language paperwork.

HRA Policy

To meet the needs of persons with hearing impairments, telephone communication is available through the Minnesota Relay Service.

To meet the needs of persons with vision impairments, large-print versions of key program documents will be made available upon request.

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

2-II.G. PHYSICAL ACCESSIBILITY

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

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

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

- This plan describes the key policies that govern the HRA's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

The HRA's notice of denial will describe the HRA's informal review process and the right to appeal the decision. In addition, the notice will inform applicants of their right to request reasonable accommodations to participate in the informal review process.

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

When reviewing reasonable accommodation requests, the HRA will consider how a disability relates to or explains the problem that led to the HRA's decision to deny or terminate assistance. The HRA will also consider whether the requested accommodation can overcome any disability-related problem that has led to termination or denial of assistance. The HRA will make reasonable accommodations when doing so will allow the family to meet the requirements.

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.*

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

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

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

The HRA has a Limited English Proficiency (LEP) Plan for agency-wide observance in its interactions with the public. This LEP Plan constitutes the HRA's policies with respect to this, addressing language barriers and is appended to this chapter as Exhibit 2-2.

2-III.B. ORAL INTERPRETATION

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

HRA Policy

See Exhibit 2-2.

2-III.C. WRITTEN TRANSLATION

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

HRA Policy

See Exhibit 2-2.

2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the HRA 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 HRA 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 HRA's Housing Choice Voucher program and services.

HRA Policy

See Exhibit 2-2.

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; genitourinary; 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 HRA) 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 definition of 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 a reasonable accommodation is needed to provide equal opportunity to access the benefits of the HCV program.

EXHIBIT 2-2: LIMITED ENGLISH PROFICIENCY PLAN

Section One--Plan Purpose

The Plymouth HRA Limited English Proficiency (LEP) Plan sets forth the policy for ensuring meaningful access by limited English proficient persons to programs and services provided by the HRA.

The Plan has been developed in accordance with Executive Order 13166 and guidance provided by the Department of Housing and Urban Development. The HRA will make reasonable efforts to provide or arrange free language assistance for LEP clients. This includes applicants, recipients and/or persons eligible for HRA programs.

Section Two—Definitions

Limited English Proficient (LEP): Persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English can be LEP, and may be entitled to language assistance with respect to a particular service, benefit, or encounter.

Interpretation: The act of listening to something in one language (source language) and orally translating it into another language (target language).

Translation: Is the replacement of written text from one language (source language) into an equivalent written text in another language (target language)

Meaningful Access: Meaningful access to programs and services is the standard of access required of federally funded entities to comply with Title VI's language access requirements. To ensure meaningful access for people with limited English proficiency, service providers must make available to applicants/recipients free language assistance that result in accurate and effective communication.

Section Three—Four Factor Analysis

In taking reasonable steps to ensure meaningful access to programs and services by LEP persons, the HRA shall determine need within its service jurisdiction by balancing the following four factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the HRA.
- The frequency with which the HRA comes in contact with a particular language.
- The nature and importance of the program, activity or service to the person's life.
- The HRA's resources and the cost of providing meaningful access. Reasonable steps may cease to be reasonable when the costs imposed substantially exceed the benefits.

In analyzing the eligible market area and program beneficiaries by using the four factors, the HRA may conclude that different language assistance measures are sufficient for different types of programs and/or activities. Measures employed will be based on what is considered necessary and reasonable.

Section Four—Language Assistance

HRA staff will take reasonable steps to provide the opportunity for meaningful access by LEP clients who have difficulty communicating in English. The HRA has the discretion to determine whether language assistance is needed, and if so, the type of assistance necessary to provide meaningful access.

The Agency has identified two methods of providing meaningful access:

Interpreter Services

Oral interpretation services may be provided through the use of informal and formal interpreters including bilingual staff, telephone interpretation services, contracted in- person interpreters, and informal interpreter networks.

Informal: Depending on the circumstances, timing and subject matter the use of informal interpreters may be appropriate. Examples of informal interpreters include the LEP client's family members, friends, or advocates. HRA employees should be aware that staff should never require, suggest, or encourage a LEP client to use family members or friends as interpreters. However, a LEP person may use an informal interpreter of their own choosing and expense in place of or as a supplement to the free language assistance offered by the HRA. Due to issues of confidentiality and competency, informal interpreters must be over the age of 18. If the participant provides an informal interpreter they must acknowledge that information that could be considered as private or confidential information under the Minnesota Government Data Practices Act or the federal Privacy Act may be discussed at the meeting, appointment or phone call, and that they consent to any disclosure of that information to the informal interpreter.

Formal: Formal interpreters may include contract vendors. If the HRA receives a request for a formal interpreter, the HRA shall determine based on client need, the best source for such services. This service shall be free to clients. Contract interpretation services can include an outside vendor or a person from the list of City of Plymouth volunteers.

Competency of Interpreters: To provide effective services to LEP persons, the HRA will use competent interpreters. Competency to interpret does not necessarily mean formal certification as an interpreter but competency requires that interpreters:

- Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and use the appropriate mode of interpreting.
- Have fundamental knowledge in both languages of any specialized terms or concepts.
- Understand and adhere to their role as interpreters without deviating into a role outside of interpreting such as counselor or legal advisor.
- Demonstrate a solid understanding and compliance with MN Data Privacy laws

Means of providing: If a client asks for or indicates otherwise a need for language assistance, the HRA will determine whether or not the client is LEP and that language assistance is necessary to provide meaningful access. Interpretation that is needed and reasonable shall be provided at a time and place that avoids the effective denial of the service or benefit.

Documentation of Use: HRA staff shall document in the client's case file or record when an interpreter is used or when a client makes use of another form of language assistance.

If the client has been offered free interpretive services and chooses to utilize their own interpreter, the client must sign a waiver indicating that they are giving up their right to free interpreter services. The waiver will be in effect for the time period indicated on the form.

Translation Services

The HRA will weigh the costs and benefits of translating documents for LEP groups, considering the expense of translating the documents, the barriers to meaningful translation of technical housing information, the likelihood of frequent changes in documents, the existence of multiple dialects within a single language group, the literacy rate of an LEP group and other relevant factors.

As opportunities arise, the HRA may work with other housing authorities to share the costs of translating common documents.

Section Five—Notification

Client Notification

The HRA will provide notification of free language services by explaining how LEP persons can receive assistance.

Staff Notification

The HRA will provide notification to staff regarding the obligation to provide meaningful access to information and services for LEP persons. Examples of staff notification may include:

- Explanation of requirements at new employee orientation.

Section Seven—Evaluation and Monitoring

From time to time, the HRA will review the LEP Policy to determine its overall effectiveness. The review may consider the following areas:

- Changes in the current LEP populations;
- Changes in the frequency of encounters with LEP language groups;
- The nature and importance of agency activities to LEP persons;
- The availability of resources including technological advances, additional resources, and costs imposed;
- Whether existing assistance is meeting the needs of LEP persons;
- Whether staff knows and understands the LEP plan;
- Whether identified sources for assistance are still available and viable.

Chapter 3

ELIGIBILITY

INTRODUCTION

The HRA 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 HRA 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 HRA.
  - 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 and documentation for family members as required.
  - Consent to the HRA's collection and use of family information as provided for in HRA-provided consent forms.
- The HRA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the HRA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and HRA 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 HRA 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), 24 CFR 5.403, HUD-50058 IB, p. 13, Notice PIH 2014-20]

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. The term "*family"* includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

(1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person or any other single person; or

(2) A group of persons residing together and such group includes, but is not limited to:

(i) 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);

(ii) An elderly family;

(iii) A near-elderly family

(iv) A disabled family;

(v) A displaced family; and

The remaining member of a tenant family.

HRA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption or affinity (regardless of actual or perceived sexual orientation, gender identity, or marital status) that live together in a stable family relationship.

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

Family Composition

See definition of "*family*" in CFR 5.403.

Household

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

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY

Family Break-up [24 CFR 982.315, PIH Notice 2017-08]

The HRA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results for an occurrence of domestic violence, dating violence, sexual assault, or stalking, the HRA 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 PIH Notice 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 HRA is bound by the court's determination of which family members continue to receive assistance.

HRA Policy

When a family on the waiting list breaks up into two or more 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 or more 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, the HRA will determine which family retains their placement on the waiting list, or will continue to receive assistance taking 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 working with the family.

When the Head of Household voluntarily relinquishes the voucher rental subsidy for any reason, the Housing Choice Voucher assistance terminates for the entire family.

Remaining Member of a Tenant Family [24 CFR 5.403]

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

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

HRA Policy

Remaining member of the tenant family applies only if the initial Head of Household is out of the home due to death, serious medical condition or other extenuating

circumstances which may be approved upon review of requested supporting documentation.

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.

HRA Policy

The head of household can only be changed in the case of medical or mental necessity and must be to a spouse or co-head.

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.

HRA Policy

The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners.

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.

HRA Policy

A co-head is a non-relative such as friends, roommates, significant others, domestic partners and minors who are emancipated under state law may be designated as a co-head.

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

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

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

Joint Custody of Dependents

HRA 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 50 percent 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, the HRA will make the determination based on available documents such as court orders, or a tax return showing which family has claimed the child for income tax purposes.

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

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

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

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS AND ELDERLY FAMILY [24 CFR 5.100 and 5.403]

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

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

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities

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

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

Disabled Family

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

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

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

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

HRA Policy

A guest is a person who can verify a permanent address elsewhere. A guest can remain in the assisted unit no longer than 14 days total in 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.

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

HRA 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, military deployment, incarceration, and court order.

Definitions of Temporarily and Permanently Absent

HRA Policy

Generally an individual who is expected to be absent from the assisted unit for 180 consecutive days or less for educational activities, placement in foster care, employment, illness, incarceration, and court order 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 60 consecutive days or less is considered temporarily absent and continues to be considered a family member. No adjustments will be made to the tenant file regarding income and/or household composition. Generally an individual who is or is expected to be absent from the assisted unit for more than 60 consecutive days is considered permanently absent and no longer 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

HRA 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 only under the following circumstances: 1) they reside in housing provided by the educational institution only for students of that institution, AND 2) they live in the assisted unit at least three consecutive months of the year during which time they do not maintain a separate student residence.

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.

HRA Policy

If a child has been placed in foster care, the HRA will verify with the appropriate agency whether and when the child is expected to be returned to the home.

Absent Head, Spouse, or Co-head

HRA 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].

HRA Policy

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

Return of Permanently Absent Family Members

HRA Policy

The family must request HRA approval for the return of any family members that the HRA has 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

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined 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 HRA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

HRA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member and must be signed by a reliable, knowledgeable professional such as a doctor, social worker, or case worker. The HRA will provide verification forms for this process. The family will be required to authorize the HRA to verify information via third-party sources. If the identified parties do not respond to the HRA's verification requests, the family will be offered an opportunity to provide additional documentation or potential sources for verification. If the family does not cooperate to secure verifications, the HRA will not approve the request.

The family must identify the individual to be designated as the live-in aide. The live-in aide will be required to document they have not provided nor are they obligated to support the member requiring such care. The live-in aide will need to document that they do not reside elsewhere.

The HRA will review all verification documents to determine whether or not the criteria for a live-in aide are met. The HRA reserves the right to deny the live-in-aide if the family's care needs could be met without the expense of housing a live-in-aide. For continued approval, the family must submit a new, written request-subject to HRA

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. The live-in aide will be required to list what types of services they will provide. Current and recent family members, spouses and domestic partners are presumed not to meet the definition of a live-in-aide unless documentation is provided that demonstrates otherwise. Such documentation would need to establish a history of living apart and managing personal expenses separately for a period of at least 12 consecutive months prior to the request.

The HRA 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 drug-related criminal activity or violent criminal activity; or
>
> The person currently owes rent or other amounts to the HRA or to another HRA in connection with Section 8 or public housing assistance under the 1937 Act.

The HRA will perform a criminal background check, in accordance with Section 3.III.D, before approving a live-in aide to determine eligibility with the above criteria. The HRA will notify the family of its decision in writing in a timely manner.

If approved by the HRA, the family must provide a copy of the lease indicating that the live-in aide is listed as an occupant in the unit

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

Types of Low-Income Families [24 CFR 5.603(b)]

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

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

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

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

Using Income Limits for Eligibility [24 CFR 982.201]

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

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

  HRA Policy

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

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

HRA Policy

The HRA 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 HRA's program during a HRA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the HRA 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 subject to the 75 percent restriction.

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

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

All applicant families must be notified of the requirement to submit evidence of their citizenship

status when they apply. Where feasible, and in accordance with the HRA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

> HRA Policy
>
> Family members who declare citizenship or national status will not be required to provide additional documentation unless the HRA 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 HRA 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 noncontending family members listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. The HRA 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 HRA 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 HRA 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 HRA in accordance with program requirements [24 CFR 5.512(a)].

HRA Policy

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

When a HRA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

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

HRA Policy

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

3-II.C.SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218] [PIH Notice 2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate Social Security Number (SSN) assigned to each family member and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7. These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed a SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Existing program participants, who as of January 31, 2010, were 62 years of age or older (born on or before January 31, 1948) remain exempt from this requirement. This exemption continues even if the individual moves to a new assisted unit.

The HRA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216. If the family is otherwise eligible to participate in the program, the family may maintain his/her position on the waiting list for a period of time as determined by the HRA. If a voucher becomes available and non SSNs have been disclosed, the HRA must offer the available unit to the next eligible applicant family on the waiting list.

> HRA Policy
>
> The HRA will allow a maximum time period to disclose and provide documentation of all member SSNs of 90 days. The HRA will consider granting an extension of one additional 90-day period if the HRA determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were out of the control of the applicant.
>
> If the family fails to disclose SSNs and provide documentation within the maximum time period, the HRA will deny assistance and remove their name from the waiting list.

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

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

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

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

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

are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, 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 his/her parents in accordance with HRA 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 HRA will rely on the following definitions [FR 4/10/06, p. 18148] [FR 09/21/16, p. 64932].

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

HRA Policy

The HRA will consider a student "independent" from his or her parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

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

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

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

   Be an orphan or a ward of the court through the age of 18

   Be a veteran of the U.S. Armed Forces

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

Be a graduate or professional student

Be married

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

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

Institution of Higher Education

The HRA 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

HRA 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

The HRA 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

HRA Policy

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

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the HRA 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 HRA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from his/her parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

HRA Policy

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

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

Determine whether the student is independent from his/her parents in accordance

with the definition of *independent student* in this section

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

If the HRA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the HRA 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

HRA Policy

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

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

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

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

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

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

PART III: DENIAL OF ASSISTANCE

3-III.A. OVERVIEW

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

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

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

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher

- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), Pub.L. 109-162]

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

- Race, color, sex, religion, familial status, age, disability, national origin, creed, sexual orientation, marital status, or receipt of public assistance. (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 HRA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, or stalking

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

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

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, the HRA to admit an otherwise-eligible family if the household member has completed a HRA-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).

  HRA Policy

  The HRA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if the HRA is able to verify that the household member who engaged in the criminal activity is no longer living in the household.

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

  HRA Policy

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

- The HRA 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.

  HRA Policy

  In determining reasonable cause, the HRA 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. A conviction will be given more weight than an arrest. The HRA 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.

  HRA Policy

  If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing the family will be denied assistance.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

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

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

Criminal Activity [24 CFR 982.553]

HUD permits, but does not require, the HRA to deny assistance if the HRA 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.

HRA Policy

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

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

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].

If any household member has a pattern of criminal activity, over a period of the most recent 10 years, 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 cause damage to the property; or

If any household member has engaged in criminal activity that may threaten the health or safety of property owners and management staff, and persons performing contract administration functions or other responsibilities on behalf of the HRA (including a HRA employee or a HRA contractor, subcontractor, or agent).

Immediate vicinity means within a half-mile radius of the premises.

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

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

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

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

A conviction for criminal activity will be given more weight than an arrest for such activity.

In making its decision to deny assistance, the HRA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the HRA 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 HRA to deny assistance based on the family's previous behavior in assisted housing:

HRA Policy

The HRA **will** deny assistance to an applicant family if:

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

The family does not provide complete and true information to the HRA.

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

Any PHA has terminated HCV assistance for cause or the HRA has terminated assistance under a rental program for any member of the family in the past five years.

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

The family owes rent or other amounts to any HRA in connection with the HCV, Certificate, public housing or other HRA programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.

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

The family has breached the terms of a repayment agreement entered into with the

HRA or another PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

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

Abusive or violent behavior towards HRA 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 HRA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the HRA may, on a case-by-case basis, decide not to deny assistance.

3-III.D. SCREENING

Screening for Eligibility

HRAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the HRA in complying with HUD requirements and HRA 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 HRA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

HRA Policy

The HRA will perform a criminal background check through the City of Plymouth Police Department for every adult household member. If the police department confirms that an adult family member has a record, the HRA will require the adult household member to provide their criminal history report. A criminal history report can be obtained through the Bureau of Criminal Apprehension or similar state agency if outside Minnesota.

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

If the HRA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the HRA 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 HRA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The HRA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

HRA Policy

The HRA 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 HRA 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 HRA to provide prospective owners with the family's current and prior address (as shown in HRA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits the HRA 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.

HRA Policy

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

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

Evidence [24 CFR 982.553(c)]

HRA Policy

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

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

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

HRA Policy

The HRA will consider the following factors prior to making its decision:

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

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

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

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

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

The HRA 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. Successful rehabilitation is defined as being drug and/or alcohol free for a period of 12 months.

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

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

HRA Policy

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

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

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

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

HRA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the HRA will determine whether the behavior is related to the disability. If so, upon the family's request, the HRA will determine whether alternative measures are appropriate as a reasonable accommodation. The HRA 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 HRA will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

If the HRA 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.

HRA Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination. The notification will also indicate that their name will be removed from the waiting list if they fail to respond within the timeframe specified.

If a HRA 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 HRA 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 HRA 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)].

HRA Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible; the HRA will notify the family in writing of the 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 through the Informal Review process. If the family does not request an Informal Review within that 10-day period, the family's application will be denied.

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, 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 [24 CFR Part 5, Subpart L]

The Violence Against Women Act of 2013 (VAWA) and the HUD regulation of 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program "on the basis that the applicant is or has been a victim of domestic violence, dating violence, 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 required and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA 2013 expanded notification requirements to include the obligation for the HRA to provide applicants who are denied assistance with a notice of rights and the form HUD-5382 at the time the applicant is denied.

HRA Policy

The HRA acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the HRA's policies. Therefore, if the HRA makes a determination to deny assistance to an applicant family, the HRA 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 HUD-5382. The HRA will request that an applicant wishing to claim protection under VAWA notify the HRA within 10 business days.

Documentation

Victim Documentation [24 CFR 5.2007]

HRA Policy

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

Perpetrator Documentation

HRA 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:

1) A signed statement requesting that the perpetrator be removed from the application and certifying that the perpetrator will not be permitted to visit or stay as a guest in the assisted unit

2) 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 his or her 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 his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such 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; genitourinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

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

(3) *Has a record of such an impairment* means has a history of, or 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 preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

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

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

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

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

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

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term ''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—

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

(I)(aa) 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

(bb) 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

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

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

(B) Advisory panel

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled 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.

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

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

(b) Proprietary institution of higher education.

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

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

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

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

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

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

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

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

(c) Postsecondary vocational institution.

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

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

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

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

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

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive Section 8 HCV assistance, the family must submit an application that provides the HRA with the information needed to determine the family's eligibility. HUD requires the HRA to place all eligible (income, residency, have social security numbers) families that apply for assistance on a waiting list. When HCV assistance becomes available, the HRA must select families from the waiting list in accordance with HUD requirements and HRA policies as stated in the administrative plan and the annual plan.

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

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the HRA 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 HRA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and HRA 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 HRA will handle the applications it receives.
>
> Part II: Managing the Waiting List. This part presents the policies that govern how the HRA'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 HRA will use to keep the waiting list current.
>
> Part III: Selection for HCV Assistance. This part describes the policies that guide the HRA 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 HRA has the information needed to make a final eligibility determination.

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the HRA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the HRA'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 HRA 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 HRA. However, the HRA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the HRA's application.

HRA Policy

Based upon the length of time an applicant may need to wait to receive assistance, the HRA will use a two-step application process.

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 60 days from the date of the application. Under the two-step application process, the HRA initially will require families to complete a pre-application which allows the HRA to make an initial assessment of the family's eligibility and preferences, 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 preferences when the family is selected from the waiting list for a briefing appointment.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

4-I.D. PLACEMENT ON THE WAITING LIST

The HRA must review each complete application received and make a preliminary assessment of the family's eligibility. The HRA 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 HRA 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)].

Eligible for Placement on the Waiting List

HRA Policy

The HRA will send written notification of the preliminary eligibility determination; preferences; and position on the waiting list within 30 calendar days of the closing of the waiting list.

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 their lottery ranking number.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

In addition, HUD imposes requirements on how the HRA 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 HRA's HCV waiting list must be organized in such a manner to allow the HRA 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 HRA 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.

HUD directs that a family that applies for assistance for 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 the HRA 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 the HRA 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.

HRA Policy

The HRA will maintain a single merged waiting list for HCV; project-based; and Non-Elderly Disabled Families (Mainstream) programs.

When filling vacant PBV units, the HRA will accept names referred by the PBV owner for its PBV waiting list as needed when the HRA has exhausted all names on the merged waiting list for the unit.

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

Closing the Waiting List

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

HRA Policy

The HRA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches two to three years for the most current applicants. Where the HRA has particular preferences or funding criteria that require a specific category of family, the HRA 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 HRA 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.

HRA Policy

The HRA will announce the reopening of the waiting list at least 10 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.

The HRA will give public notice by publishing the relevant information in suitable local media outlets including, but not limited to: Housing Link, Interfaith Outreach and Community Partners, PRISM, local housing authorities, and on the City of Plymouth's website at www.plymouthmn.gov.

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

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

Because HUD requires the HRA to serve a specified percentage of extremely low income families (see Chapter 4, Part III), the HRA 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].

HRA 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

HRA 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

HRA Policy

The HRA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the HRA'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

HRA Policy

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

An applicant may at any time report changes in their applicant status including changes in family composition, income, or preference factors. The HRA will notate the applicant's file and will update their place on the waiting list. Confirmation of the changes will be confirmed with the applicant in writing.

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

HUD requires the HRA 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 HRA request for information or updates because of the family member's disability, the HRA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

HRA 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, the HRA will send a notice 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 notice will be sent to the last address that the HRA 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.

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. However, if the applicant contacts the housing authority during the response time frame, the application can be mailed out with the updated address and will have 15 business days to respond from time it was re-sent.

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 15 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, the HRA may reinstate the family if it determines the lack of response was due to HRA error, or to circumstances beyond the family's control (such as the family was out of town and can prove they were gone during the time the pre-application form was received and due for submission). The HRA will only reinstate in this instance if the request is made within 30 days from the date the family was removed from the waiting list.

Removal from the Waiting List

HRA Policy

If at any time an applicant family is on the waiting list, the HRA determines that the family is not eligible for assistance (see Chapter 3); the family will be removed from the waiting list. The exception is if the applicant exceed the income limit while on the wait list, they will not be removed unless over income at the time of admission.

If at any time an applicant family requests that their name be removed from the waiting list, the family will be removed from the waiting list.

If an applicant already has a housing choice voucher through another housing authority, the family will be removed from the waiting list.

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

The HRA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the HRA'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 HRA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. The HRA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

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

HRA Policy

The HRA administers the following types of targeted HUD funding:

The HRA administers a Project-Based Voucher program (PBV) and the Non-Elderly Disabled Families (Mainstream).

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

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

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

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

HRA Policy

Category 1 Preferences:

The HRA will offer a preference to any family that has been involuntarily displaced through no fault of their own, such as a disaster (fire, flood, earthquake); government action; owner action such as sale or foreclosure of unit (excluding eviction for nonpayment of rent or rent increase); victims of domestic violence within the last six months or be of continuing in nature; or, victim of hate crimes. (Preference A)

The HRA will offer a preference to any family that is homeless and living in a shelter or transitional housing. (Preference B)

The HRA will offer a preference to any family that is paying more than 50% of their gross household income for rent and utilities for at least 90 days commencing before they are selected from the waiting list. (Preference C)

Category 2 Preferences:

The HRA will offer a preference to any family that live or work in Hennepin County, Minnesota. [24 CFR 100.80] (Preference D)

The HRA will offer a preference to persons or families whose head of household is unable to work due to a disability. Proof of disability will be required at time of selection. (Preference E)

Category 3 Preference:

The HRA will offer a priority preference to any family that lives or lived in a PBV unit in Plymouth and has met all necessary Family Right to Move requirements [24 CFR 983.260]. (Preference F)

Local Preferences will be aggregated using the following system: Each preference will receive an allocation of points. The more preference points an applicant has, the higher the applicant's place on the waiting list. Category 1 - Preferences A through C will have a value of 100 points. Category 2 - Preferences D and E will have a value of 50 points. Category 3 – Preference F will have a value of 125 points.

Note: An applicant cannot have more than two preferences – one preference from Category 1 or Category 3 and one preference from Category 2.

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

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during the HRA's fiscal year. ELI families are those with annual incomes at or below 30% of the area median income. To ensure this requirement is met, the

HRA 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)].

HRA Policy

The HRA will monitor progress in meeting the ELI requirement throughout each 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 HRA system of preferences may select families either according to the date and time of application, or by a random selection process [24 CFR 982.207(c)]. When selecting families from the waiting list the HRA is required to use targeted funding to assist only those families who meet the specified criteria, and the HRA 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)].

HRA 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 the HRA's hierarchy of preferences. The HRA's hierarchy of preferences is A, B, and C all having equal points and then D, and E having equal points.

Within each targeted funding or preference category, families will be selected by position determined by lottery method and then date and randomly assigned time.

Documentation will be maintained by the HRA 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 the HRA does not have to ask higher placed families each time targeted selections are made.

The HRA reserves the right whether to issue or absorb vouchers on a case-by-case basis based on timing and utilization.

4-III.D. NOTIFICATION OF SELECTION

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

HRA Policy

The HRA 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 briefing, including any procedures for rescheduling the briefing;

Who is required to attend the briefing;

Documents that must be provided at the briefing to document the legal identity of household members, including information about what constitutes acceptable documentation; and,

Other documents and information that should be brought to the briefing.

If a notification letter is returned to the HRA 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 HRA obtain the information and documentation needed to make an eligibility determination though a private interview [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 HRA 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 HRA [Notice PIH 2010-3].

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

HRA Policy

Families selected from the waiting list area required to participate in an application interview.

The application interview will be conducted as a briefing (See Chapter 5-I.B.) in a one-step process.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

HRA Policy

The application interview is done as part of the briefing (See Chapter 5-1.B.) as a one-step process.

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

This chapter describes HUD regulations and HRA 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 HRA'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 HRA to conduct mandatory briefings for applicant families. The briefing provides a broad description of owner and family responsibilities, explains the HRA'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 HRA 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 HRA 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.

> HRA Policy
>
> The application interview (Chapter 4-III.E.) is done as part of the briefing in a one-step

process to determine eligibility.

Briefings are typically conducted in group meetings.

Briefings will be conducted in English. For limited English proficient (LDP) applicants, the HRA will provide translation services in accordance with the HRA's LEP plan (See Chapter 2). An advocate, interpreter, or other assistant may assist the family with the application and briefing process.

The family must provide the information necessary to establish the family's eligibility to determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any documents or information are missing, the HRA will provide the family with a written list of items that must be submitted and a deadline for submission of such items. If documents and/or information are not provided within the required time fame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

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

If the 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, preferences), the family will be returned to its appropriate position on the waiting list. The HRA will notify the family in writing that it has been returned to the waiting list, and will specify the reason for it.

Notification and Attendance

HRA 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. Generally, all adult members are required to attend the briefing. If any adult member is unable to attend, the HRA may waive this requirement as long as the head, spouse or co-head attends the 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. A change in address could impact eligibility.

Applicants who fail to attend a scheduled briefing may be scheduled for another briefing only if they notified the HRA by the deadline given. The HRA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend the scheduled briefing, without HRA 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 HRA's jurisdiction;
- For families eligible under portability, an explanation of portability. The HRA 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
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

HRA Policy

Families receiving welfare-to-work vouchers do not pertain to Plymouth HRA.

Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, and the HRA's policies on any extensions or suspensions of the term. If the HRA 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 HRA determines the payment standard for a family, how the HRA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the HRA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the HRA jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy**,** and a description of the procedure for requesting approval for a tenancy.
- A statement of the HRA policy on providing information about families to prospective owners.
- The HRA subsidy standards including when and how exceptions are made.
- The HUD brochure entitled *A Good Place to Live* on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home.*
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas 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 HRA.
- The family obligations under the program.
- The grounds on which the HRA may terminate assistance for a participant family because of family action or failure to act.
- HRA informal hearing procedures including when the HRA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- Form HUD-52675 Debts Owed to Public Housing Agencies and Terminations

Since the HRA is located in a metropolitan FMR area, the following additional information is 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 pertaining to school districts, transportation resources and agencies and services for northern Hennepin County.
- An explanation of how portability works and a map depicting the various housing agencies and phone numbers for the metropolitan area. Applicants and tenants will be referred to www.housinglink.org for specific portability contact information or the HRA Specialist will print out the pertinent information upon request.
- Advantages of Moving to Areas with Low Concentrations of Low Income Families. Resources include the following research:

  "Benefits of Living in High-Opportunity Neighborhoods" (Urban Institute, 2012)

  "The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates" (Raj Chetty and Nathaniel Hendren, 2015)

  "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Move to Opportunity Experiment" (Raj Chetty, Nathaniel Hendren, and Lawrence Katz, 2015)

Additional Items to Be Included in the Briefing Packet

In addition to items required by the regulations, the HRA 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].

HRA Policy

The HRA will provide the following additional materials in the briefing packet:

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

- "Fair Housing and Equal Opportunity for All" brochure;
- Landlords and Tenants: Rights and Responsibilities from the Office of the MN Attorney General;
- Fact sheet "How your Rent is Determined" for Public Housing and Housing Choice Voucher programs. Office of Public and Indian Housing March 2002;
- A brochure for Home Line, a non profit organization, provides free advice and information to Minnesota tenants about their rights;
- Criminal Background Check Authorization;
- Information about the protections afforded by the Violence Against Women Act of 2013 (VAWA) to victims of domestic violence, dating violence, sexual assault, and stalking (see Section 16-IX.C);
- Information on how to fill out and file a housing discrimination complaint form;
- Change reporting form.

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 HRA 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

HRA Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the HRA of a change, notifying the HRA of the request or change within 10 business days is considered prompt notice.

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

Family Obligations [24 CFR 982.551]

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the HRA 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 HRA 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 HRA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family, any household member, or guest must not commit any serious or repeated violation of the lease.

  HRA Policy

  The HRA will determine if a family, household member, or guest 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 of lease termination.

  Serious and repeated lease violations will include, but are not 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.
- The family must notify the HRA and the owner before moving out of the unit or terminating the lease.

  HRA Policy

  The family must comply with lease requirements regarding written notice to the owner. The family must provide a 60 day written notice to the HRA at the same time the owner is notified.
- The family must promptly give the HRA a copy of any notice of lease termination they receive from the owner or Summons and Complaint in an eviction action filed by the owner.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

  HRA Policy

  The family may engage in legal profit making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses.
- The composition of the assisted family residing in the unit must be approved by the HRA. The family must promptly notify the HRA in writing of the birth, adoption, or court-awarded custody of a child. The family must obtain HRA and landlord approval to add any other family member/individual as an occupant of the unit.

  HRA Policy

  To add an additional member to the household, the family must first obtain approval from the landlord and then submit request in writing to the HRA for approval prior to the person moving into the unit. The HRA will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the HRA and the landlord in writing if any family member no longer lives in the unit.
- If the HRA has given approval, a foster child or a live-in aide may reside in the unit. The HRA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HRA 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.

  HRA 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 HRA 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 HRA when the family or a family member is absent from the unit.

  HRA Policy

  Notice is required under this provision when one or more family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided and approved prior to the start of the extended absence. An authorized absence may not exceed 60 days.

To obtain HRA approval, the family must:

1. Satisfy notice requirements;
2. Provide documentation acceptable to the HRA regarding the length of absence and the reason for the absence;
3. Affirm their intent to return to the unit at the end of the leave period;
4. Agree to be responsible for receiving and responding to all notices sent by the HRA to the unit during periods of absence;
5. Pay rent to the owner and pay for utilities while they are absent, and
6. Make arrangements for the unit to be available for HRA inspections as necessary.

If this procedure is not followed, the unit will be considered abandoned and the HRA will terminate housing assistance payments and the family's participation in the program.

- 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 HRA 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 HRA 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 HRA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide a 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. OVERVIEW

The HRA 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 HRA must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of that term.

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

For each family, the HRA determines the appropriate number of bedrooms under the HRA 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 HRA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.

- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the HRA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the HRA subsidy standards.

HRA Policy

The HRA will assign the first bedroom to head of household, their spouse, significant other or other adult household member of the same generation regardless of sex. Thereafter, the HRA will assign one bedroom for each two persons within the household regardless of sex, age or relationship, except in the following circumstances:

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

To be considered as part of the household foster children need to be living in the household for more than 12 months.

The HRA will not issue a larger voucher due to additions of family members other than by birth, adoption, court awarded permanent custody, or court awarded permanent legal guardianship (minor child).

A household add-on is not a member of the original family and is not a dependent (minor child) of the voucher holder. A household add-on will not increase the voucher size for which a voucher holder qualifies without the household add-on. If a voucher holder voluntarily gives up the voucher rental subsidy, the household add-on does not have any rights to the voucher.

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, the HRA **may** grant an exception to its established subsidy standards if the HRA 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:

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)].

HRA Policy

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).

If exception is needed due to special or large medical equipment that can't be accommodated in the bedroom and living room (sleeping area as designated by HUD), the actual equipment must be verified by the HRA before approving the additional bedroom. Once exception is approved, the special or large medical equipment will be verified at the biennial inspection. If the extra bedroom is not being used for the intended purpose, the HRA will reduce the subsidy standard and corresponding payment standard at the family's next recertification.

The HRA will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

The family may select a rental unit which is larger or smaller than the assigned subsidy standard. If the unit selected by the family is different than their voucher size, the payment standard and the utility allowance of the lesser of the two will be applied to determine the housing assistance payment.

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 HRA 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 HRA has determined the family to be eligible for the program, and that the HRA expects to have money available to subsidize the family if the family finds an approvable unit. However, the HRA 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 HRA's housing choice voucher program [Voucher, form HUD-52646]

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

<u>HRA Policy</u>

If at any time after the briefing and before issuance of voucher, the HRA is made aware of household changes, the HRA retains the right to withhold issuing the voucher until eligibility can be re-determined.

The HRA 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 HRA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

<u>HRA Policy</u>

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

If the HRA determines that there is insufficient funding after a voucher has been issued, the HRA 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)].

HRA Policy

The initial term will be 60 calendar days for applicants and 90 calendar days for participants.

The family must submit a Request for Tenancy Approval and proposed lease within the voucher term unless the HRA grants an extension.

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

The HRA 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 HRA can approve. Discretionary policies related to extension and expiration of search time must be described in the HRA's administrative plan [24 CFR 982.54].

The HRA 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 HRA's decision to approve or deny an extension. The HRA'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)].

HRA Policy

The HRA may grant an extension of the term, but the initial term plus any extensions will not exceed 120 calendar days from the initial date of issuance. To obtain an extension, the family must make a request in writing prior to the expiration date.

If a Request for Tenancy Approval (RTA) is not submitted on or before the voucher expiration date, the applicant will be removed from the waiting list. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

The HRA may grant an additional 30 calendar days beyond the 120 calendar days on a case-by-case basis for a reasonable accommodation request due to special challenges of the family in seeking a unit.

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

The HRA will 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 HRA approves or denies the request [24 CFR 982.4].

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 HRA will 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].

HRA Policy

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

Within 10 business days after the expiration of the voucher term or any extension, the HRA 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.

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

HRA Policy

Generally an individual who is or is expected to be absent from the assisted unit for 60 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 60 consecutive days is considered permanently absent and no

longer a family member. A household add-on is not a member of the original family and is not a dependent of the voucher holder. A household add-on will not increase the voucher size for which a voucher holder qualifies without the household add-on. If a voucher holder voluntarily gives up the voucher rental subsidy, the household add-on does not any have rights to the voucher. Exceptions to this general policy are discussed below.

Absent Students

HRA 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 under the following circumstances: 1) they reside in housing provided by the educational institution only for students of that institution, AND 2) they live in the assisted unit at least three consecutive months of the year during which time they do not maintain a separate student residence.

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].

HRA Policy

If a child has been placed in foster care, the HRA will verify with the appropriate agency whether and when the child is expected to be returned to the home. If the child is not expected to return to the home during the next annual certification period, or if the child has been added to another assisted household, the child will not be considered a family member.

Absent Head, Spouse, or Co-Head Due to Employment

HRA Policy

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

Family Members Permanently Confined for Medical Reasons

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

HRA Policy

The HRA will request verification from a responsible medical professional and will use this in making its determination. If the responsible medical professional cannot provide a conclusive statement, 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

HRA 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 50 percent of the time. The HRA will accept a notarized letter from the other parent stating that the dependent(s) live(s) with the applicant or participant family more than 50 percent of the time.

Caretakers for a Child

HRA Policy

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the HRA 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 be considered a family member provided they meet all other eligibility criteria.

(2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days while waiting for a determination of custody or legal guardianship. If no formal assignment of custody is made, an extension may be granted or assistance to the household may be suspended by the HRA. Once a formal determination has been made, the voucher will transfer to the adult who has been awarded legal custody or guardianship provided they meet all other eligibility criteria.

(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 provided they meet all other eligibility criteria.

(4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

6-I.C. ANTICIPATING ANNUAL INCOME

The HRA 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 HRA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the HRA 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 HRA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

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

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

HRA Policy

When EIV is obtained and the family does not dispute the EIV employer data, the HRA will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, the HRA will make every effort to obtain at least 3 current and consecutive pay stubs dated within the last 60 days of the reexamination interview date. If necessary, the HRA will request traditional third party verification form(s).

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

If EIV or other UIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If the HRA determines additional information is needed.

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

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

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

Known Changes in Income

If the HRA 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 HRA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

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.

EIV quarterly wages will not be used to project annual income at an annual or interim reexamination.

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)].

HRA Policy

For persons who regularly receive bonuses or commissions, the HRA will verify and then average amounts received for the one year preceding admission or reexamination. The family may provide, and the HRA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, the HRA will count only the amount estimated by the employer.

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].

HRA Policy

Sporadic income is income that is not received periodically and cannot be reliably predicted.

Children's Earnings

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

Certain Earned Income of Full-Time Students

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

Income of a Live-in Aide

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

Income Earned under Certain Federal Programs

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

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 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 HRA 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 HRA'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)].

HRA Policy

The HRA 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 to time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

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

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

End of participation in a training program must be reported in accordance with the HRA'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.

HRA Policy

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

Earned Income Tax Credit

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

Earned Income Disallowance

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

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]

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

Eligibility

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

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least $500.

Calculation of the 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 "prior income."

> HRA Policy
>
> The HRA defines *prior income,* or *prequalifying income,* as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or prequalifying, income remains constant throughout the period that he or she is receiving the EID.

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive. The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In

During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation

The EID has a 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. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 CFR 5.609(b)(2)].

Business Expenses

Net income is "gross income less business expense" [HCV GB, p. 5-19].

> HRA Policy
>
> To determine business expenses that may be deducted from gross income, the HRA 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 HRA to deduct from gross income expenses for business expansion.

> HRA 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 HRA to deduct from gross income the amortization of capital indebtedness.

> HRA Policy
>
> *Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the HRA 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 HRA 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.

HRA 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, the HRA 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

HRA 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 HRA include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the HRA 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 HRA policies related to each type of asset.

General Policies

Income from Assets

The HRA 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 HRA 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 HRA 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 HRA can take into consideration past rental income along with the prospects of obtaining a new tenant.

HRA 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 the HRA to show why the asset income determination does not represent the family's anticipated asset income.

Families with assets equal to or below $5,000 will complete a self-certification form indicating the amount of income expected to be received from assets. The self-certification from is signed by all adult members of the family.

Third-party verification of all family assets equal to or below $5,000 will be verified at least every three years at the family's annual recertification.

Assets indicated on the self-certification form will be reported as such on HUD Form 50058. [Notice PIH 2013-26] [Notice PIH 2016-05]

Assets will only be reviewed at annual recertification.

Valuing Assets

The calculation of asset income sometimes requires the HRA to make a distinction between an asset's market value and its cash value.

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

HRA 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)]

When net family assets are $5,000 or less, the HRA 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 HRA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

HRA Policy

Families with assets equal to or below $5,000 will complete a self-certification form indicating the amount of income expected to be received from assets. The self-certification from is signed by all adult members of the family. Third party verification of all family assets equal to or below $5,000 will be verified at least every three years at the family's annual recertification. Assets indicated on the self-certification form will be reported as such on HUD Form 50058. [Notice PIH 2013-26] [Notice PIH 2016-05]

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the HRA 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 plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

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."

HRA Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the HRA 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, the HRA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the HRA 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 HRA 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 *HVC Guidebook* permits the HRA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

> HRA Policy
>
> The HRA 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.

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.

> HRA 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. Written proof of such action must be provided by the family.

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

> HRA Policy
>
> Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The HRA may verify the value of the assets disposed of if other information available to the HRA does not appear to agree with the information reported by the family.

Types of Assets (Greater than $5,000)

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.

> HRA Policy
>
> In determining the value of a checking or savings account, the HRA will use the current

balance.

In determining the anticipated income from an interest-bearing checking or savings account, the HRA 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.

HRA Policy

In determining the market value of an investment account, the HRA will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), the HRA 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].

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 CFR5.603(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)]
- 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]

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.

> HRA 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 the HRA 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.

Nonrevocable 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 HRA 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].

HRA Policy

In determining the value of personal property held as an investment, the HRA will use the family's estimate of the value. The HRA may obtain an appraisal, if appropriate; to confirm the value of the asset. 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)].

HRA 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)]. Social security payments with portions withheld to repay SSA an overpayment amount must be determined as the reduced benefit amount until the overpayment withholding is complete.
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14].

Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the

delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)]. 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 [FR Notice 11/24/08].

HRA Policy

When a delayed-start payment is received and reported during the period in which the HRA is processing an annual reexamination, the HRA will adjust the family share and HRA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with the HRA.

Treatment of Overpayment Deductions from Social Security Benefits

The HRA 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 HRA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2010-3].

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 2008-30].

  HRA Policy

  The HRA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].

- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [FR Notice 11/24/08].

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 HRA 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 HRA must include in annual income "imputed" welfare income. The HRA must request that the welfare agency inform the HRA when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

Offsets

The amount of the imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

Alimony and Child Support

The HRA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

HRA Policy

The HRA will count court-awarded amounts for alimony and child support unless the HRA verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47]. The HRA considers historical patterns to be the best indicator of future income from alimony and child support; therefore, the HRA will anticipate child support income based on an average of the payments received in the last 12 months unless documentation is provided by the family showing a permanent change in status (i.e. the death of the supporter or termination of the payment obligation).

Child support income decreases will only be considered if a family can provide proof of zero child support payments for at least two consecutive months.

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 HRA 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)].

HRA 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.

Cash contributions must remain in the assisted family's household income for 12 consecutive months following the start of the contribution, unless replaced by another source of income.

Nonmonetary contributions will be valued at the cost of purchasing the items, as

determined by the HRA. For contributions that may vary from month to month (e.g., utility payments), the HRA will include an average amount based upon past history.

The HRA requires written third-party verification from the person(s) contributing to be notarized.

6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

In 2005, Congress passed a law (for section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the 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 amount received for tuition and any other required fees and charges: (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 HRA 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* will have the meaning given this term by the institution of higher education in which the student is enrolled.

Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance

- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in Section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  - (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)

(g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

(h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

(i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))

(j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

(k) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)

(l) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)

(m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))

(n) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

(p) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)

(q) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)

(r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require the HRA 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 [HRA] must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family;

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

HRA Policy

Generally, the HRA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and nonschool periods and cyclical medical expenses), the HRA will estimate costs based on historic data and known future costs.

6-II.B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense

deduction, the medical expenses of all family members are counted.

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."

HRA Policy

The most current IRS Publication 502, *Medical and Dental Expenses,* will be used to determine the costs that qualify as medical expenses. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source. Total medical expenses shall not exceed the amount of annual income.

Families That Qualify for Both Medical and Disability Assistance Expenses

HRA Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HRA 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.

HRA Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the HRA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the HRA 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 The HRA to further define and describe auxiliary apparatus.

Eligible Auxiliary Apparatus

HRA 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.

HRA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the HRA 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.

HRA Policy

The HRA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the HRA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the HRA 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

HRA Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the HRA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

Clarifying the Meaning of *Child* for This Deduction

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, child care expenses for foster children that are living in the assisted family's household, are included when determining the family's child care expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

HRA Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the HRA 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

HRA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the HRA.

Furthering Education

HRA Policy

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

Being Gainfully Employed

HRA Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, child care expenses are limited to $5,000.

The HRA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

HRA Policy

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the HRA generally will limit allowable child care expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The HRA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

Allowable Child Care Activities

HRA Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the HRA will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Necessary and Reasonable Costs

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

HRA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the HRA will use the schedule of child care costs from local child care centers. Families may present, and the HRA will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND HRA 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, not applicable in Minnesota)
- A minimum rent between $0 and $50 that is established by the HRA.

The HRA 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]

HRA Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

HRA Policy

The minimum rent for this locality is $0.

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 HRA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the HRA may not approve the tenancy if it would require the family share to exceed 40 percent 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.)

HRA Subsidy [24 CFR 982.505(b)]

The HRA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 CFR 982.514(b)]

When the HRA subsidy for a family exceeds the rent to owner, the family is due a utility

reimbursement. HUD permits the HRA to pay the reimbursement to the family or directly to the utility provider.

HRA Policy

The HRA will make utility reimbursements to the family.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

HRA Policy

The financial hardship rules do not apply because the HRA has established a minimum rent of $0.

6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505]

Overview

The HRA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the HRA's payment standards. The establishment and revision of the HRA'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 HRA'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 HRA 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 HRA must use the appropriate payment standard for the exception area.

The HRA 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 HRA 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 HRA 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 [PIH Notice 2018-01]

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. The HRA will provide notice in writing 12 months before the effective date of the reduced payment standard amount.

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 HRA is allowed to establish a higher payment standard for the family of not more than 120%. [Notice PIH 2013--26] [PIH Notice 2016-05]

6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A HRA -established utility allowance schedule is used in determining family share and HRA subsidy. The HRA must use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the voucher sized issued, as determined under the HRA's subsidy standards.. See Chapter 5 for information on the HRA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

Reasonable Accommodation

HCV program regulations require a HRA to approve a utility allowance amount higher than shown on the HRA'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 HRA will approve an allowance for air-conditioning, even if the HRA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the HRA 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 HRA must use the HRA current utility allowance schedule [24 CFR 982.517(d)(2)].

> <u>HRA Policy</u>
>
> 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 HRA must prorate the assistance provided to a mixed family. The HRA 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 HRA subsidy for a family is calculated at $500 and two of four family members are ineligible, the HRA subsidy would be reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

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

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

(3) Which are not specifically excluded in paragraph (c) of this section.

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

(b) *Annual income includes, but is not limited to:*

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; 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 and any other required fees and charges, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

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 child care 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 child care 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, child care 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[2]

24 CFR 5.609

(c) *Annual income does not include the following:*

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in Sec. 5.403;

(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;

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

(8) (i) Amounts received under training programs funded by HUD;

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

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

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

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

[2] FR Notice 11/24/08 makes note of pending revisions to this regulation, namely the exclusion of any deferred disability benefits received in lump-sum or prospective monthly amounts from the Department of Veterans Affairs (VA). At the time of publication, 24 CFR 5.609 had yet to be updated.

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

(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to The PHA and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits

a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b));

b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first $2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: 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, The PHA or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(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.

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.

(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 12-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 12-month exclusion and phase-in. Upon the 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 income of such family member as a result of employment over the family member's baseline income.

(3) Maximum two-year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 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.

(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).

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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 HRA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The HRA must not pass on the cost of verification to the family.

The HRA 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 HRA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the HRA.

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 HRA or HUD determines is necessary to the administration of the program and must consent to HRA 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 HRA 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 HRA 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 HRA procedures.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy [Notice PIH 2017-12]

HUD authorizes the HRA to use six methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the HRA to use the most reliable form of verification that is available and to document the reasons when the HRA uses a lesser form of verification.

HRA Policy

In order of priority, the forms of verification that the HRA will use are:

Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system

Up-front Income Verification (UIV) using 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

HRA Policy

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to the HRA. The documents must not be damaged, altered or in any way illegible.

Print-outs from web pages are considered original documents.

Original documents will be copied and placed in the tenant file by the HRA.

Any family self-certifications must be made in a format acceptable to the HRA and must be signed in the presence of a HRA representative or notary public.

File Documentation

The HRA 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 HRA 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.

HRA Policy

The HRA 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 the adjusted income or income-based rent determination

When the HRA is unable to obtain 3rd party verification, the HRA will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2017-12].

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the HRA'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 HRA.

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 HRA 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 HRA.

See Chapter 6 for the HRA's policy on the use of UIV/EIV to project annual income.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. HUD requires the HRA to use the EIV system in its entirety. 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.

HRA Policy

The HRA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination 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 and calculate earned income, 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 the HRA 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 Reports

The EIV discrepancy report is a tool for identifying families who may have concealed or under-reported income. Data in the discrepancy report represents income for past reporting periods and may be between 6 months and 30 months old at the time reports are generated.

Families who have not concealed or under-reported income may appear on the discrepancy report in some circumstances, such as loss of a job or addition of new family members.

Income discrepancies may be identified through use of the EIV "Income Discrepancy Report" or by review of the discrepancy tab for the individual family.

HRA Policy

When it appears that a family may have concealed or under-reported income, the HRA will request written third-party verification of the income in question.

When the HRA determines through file review and third party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV Identity Verification

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

The HRA is 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.

HRA Policy

The HRA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The HRA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the HRA determines that discrepancies exist due to HRA 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 the HRA to utilize other upfront verification sources.

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 HRA by the family. If written third-party verification is not available, the HRA 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 HRA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The HRA 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.

HRA Policy

Third-party documents provided by the family must be dated within 60 calendar days of the HRA request date.

If the HRA determines that third-party documents provided by the family are not acceptable, the HRA will explain the reason to the family and request additional documentation.

As verification of earned income, the HRA will request the three most recent 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 HRA 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.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income ($2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy.

The HRA may mail, fax, or e-mail third-party written verification form requests to third-party sources.

HRA Policy

The HRA will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the HRA.

Oral Third-Party Verification [Notice PIH 2017-12]

For third-party oral verification, the HRA contacts 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.

The HRA 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.

HRA Policy

In collecting third-party oral verification, HRA 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.

When any source responds verbally to the initial written request for verification the HRA 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.

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 the HRA 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].

HRA Policy

The HRA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

7-I.E. SELF-CERTIFICATION

Self-certification, or "tenant declaration," is used as a last resort when the HRA is unable to obtain third-party verification.

When the HRA 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.

HRA Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the HRA.

The HRA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the HRA and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a HRA representative or notary public.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

HRA Policy

The HRA 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 U.S. passport	Certificate of birth Adoption papers Custody agreement Health and Human Services ID

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the HRA'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 the HRA, made under oath, and be signed in the presence of a HRA representative and HRA notary public.

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.218 and Notice PIH 2018-24]

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 as of January 31, 2010, were 62 years of age or older (born on or before January 31, 1948). This exemption continues even if the individual moves to a new assisted unit. The HRA 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, along with other identifying information of the individual

Such other evidence of the SSN as HUD may prescribe in administrative instructions

The HRA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated,

or is not legible, or if the document appears to be forged.

HRA Policy

The HRA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the HRA within 90 days.

When the participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSA-assigned SSN, to the family, the participant must disclose the SSA-assigned SSN and provide the HRA with the documents referenced in Section 7-II.B. at the time of such request, or at the time of processing the interim or annual reexamination of the family income and/or composition. If the family is unable to provide the required documentation of the SSN, the HRA shall not add the new household member to the family composition until the family provides such documentation. The HRA is not authorized to generate an ALT ID for the affected household member.

When a participant requests to add a new household member who is under the age of 6 and does not have an SSA-assigned SSN, the participant must disclose the SSA-assigned SSN and provide the HRA with the documents referenced in Section 7-II.B. within 90 calendar days of the child being added to the household.

If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the HRA is required to grant the family an addition 90-day period to comply with the SSN disclosure and documentation requirement, **only if** the HRA determines that the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

The child is to be included as part of the assisted household and is entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. The HRA is required to generate an ALT ID for individuals without an assigned SSN. This list of such individuals in not all-inclusive:

a. U.S. newborn children (eligible citizens – these individuals will be issued an SSN upon SSA confirmation of birth).

b. Noncitizens lawfully present in the U.S. (ineligible noncitizens – these individuals will be issued an SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by law to provide an SSN to receive general assistance benefits that they already have qualified for).

c. Noncitizens unlawfully present in the U.S. (ineligible citizens – typically, these individuals cannot be assigned an SSN).

Social security numbers must be verified only once during continuously-assisted occupancy.

HRA Policy

The HRA will verify each disclosed SSN by:

Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

Copying the original documentation submitted, returning it to the individual, and retaining a copy in the tenant's file

Once the individual's verification status is classified as "verified," the HRA should remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.

HRA Policy

The HRA will retain the document in the tenant file.

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.

HRA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HRA 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.

HRA 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. If the HRA has reasonable doubts about familial relationships, the HRA will request further documentation or information.

Marriage

HRA Policy

Certification by the head of household is normally sufficient verification. If the HRA has reasonable doubts about a marital relationship, the HRA will require the family to document the marriage.

Separation or Divorce

HRA Policy

Certification by the head of household is normally sufficient verification. If the HRA has reasonable doubts about a separation or divorce, the HRA will require the family to document the divorce, or separation.

Absence of Adult Member

HRA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must submit this information on a change report form. The HRA may request that the family provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill; or, copy of lease change form from the landlord).

Foster Children and Foster Adults

HRA 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

HRA Policy

The HRA requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

The family reports full-time student status for an adult other than the head, spouse, or co-head.

The family must report when an adult full time student status changes to part time or is no longer a student.

The family reports child care expenses to enable a family member to further his or her education.

The family includes a student enrolled in an *institution of higher education.*

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

HRA Policy

In accordance with the verification hierarchy described in Section 7-1.B, the HRA 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 HRA cannot verify at least one of these exemption criteria, the HRA 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 HRA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).

Independent Student

HRA Policy

The HRA will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

7-II.F. DOCUMENTATION OF DISABILITY

The HRA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The HRA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The HRA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HRA receives a verification document that provides such information, the HRA will not place this information in the tenant file. Under no circumstances will the HRA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at www.os.dhhs.gov.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities:

- 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.

HRA Policy

For family members claiming disability who receive disability benefits from the SSA, the HRA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the HRA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the HRA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the HRA.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

HRA 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 HRA 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 HRA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

HRA Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the HRA 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.

HRA 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 HRA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The HRA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The HRA must verify any preferences claimed by an applicant.

HRA Policy

Involuntary Displacement (Preference A):

Families that have been involuntarily displaced through no fault of their own, such as a disaster (fire, flood, earthquake) must provide written verification by the displacing unit or agency of government, or by a service agency such as the Red Cross.

Families who claim they are being or have been displaced because of actions taken by the owner/agent of the unit the family is renting such as sale or

foreclosure of the unit must provide notification by owner to family of the action/ written verification by the owner or agent/documents such as sales agreements or foreclosure notices.

Families who claim they are being or have been displaced due to domestic violence within the last six months or be of continuing in nature must provide written verification from police, social service agency, court, clergy person, physician, and/or public or private facility giving shelter and/or counseling to victims. Verification must be obtained (from a landlord or other source) that the abuser still resides at the unit. The family must also certify that the abuser will not return to the household without the advance written approval of the HRA, and provide written verification of legal action taken to protect the family from the abuser.

Families who claim to be displaced by hate crimes must provide a written statement from law enforcement agency, HUD, Fair Housing or other agency responsible for non-discrimination advocacy. Statement should contain approximate number of occurrences and date of last occurrence.

Homeless Living in a Shelter or Transitional Housing (Preference B):

Written certification by a public or private facility providing shelter or a social services agency.

If a family is in transitional housing and wishes the PHA to hold the family's place on the waiting list, a statement is required from the agency providing the transitional housing.

Paying More Than 50% of Gross Income For Rent And Utilities (Preference C):

Families will be required to verify their income, the amount of rent and utilities they are obligated to pay, and the period of time they have been residing in the unit. Families must furnish copies of rental receipts, the lease, canceled checks, or money orders. The PHA may contact the landlord directly by mail or telephone. The PHA compares the address with address used on other documents in the file. In cases where the family pays rent to a co-renter or sublets the unit, the PHA requires a certification from the person who receives the money from the applicant, and verification from the owner that the family resides in the unit. To verify the amount the family actually paid for utilities not included in the rent, the family must provide copies of receipts, canceled checks, bills showing previous utility payments. Verification must be provided for a minimum period of three months.

Live or work in Hennepin County, Minnesota (Preference D):

The HRA will verify this preference using third party documentation from property owner or property records to document residency and employers to document employment location.

Unable to Work Due to a Disability (Preference E):

This preference is available for families with a member who has a disability as defined in this Administrative Plan. The PHA will require appropriate documentation from a knowledgeable professional. The PHA will not inquire as to the nature of the disability except as to whether or not it meets the HUD definition. Award letter or other proof of eligibility for Social Security Disability or Supplemental Security Income will be acceptable.

Lives or lived in a Plymouth Project Based Voucher Unit. (Preference F):

The HRA maintains a list of families currently or previously in project based units. The family must meet all necessary Family Right to Move requirements.

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 HRA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

HRA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

HRA Policy

Business owners and self-employed persons will be required to provide:

All schedules completed for filing federal and local taxes in the preceding year.

If a family member has been recently self-employed and is unable to provide schedules of tax returns to the HRA, the family is required to provide documentation of income and expenses via the HRA's Self-employment form for at least a 30-day period. The HRA will schedule a tenant rent adjustment thereafter projecting the documented net income

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

Social Security/SSI Benefits

HRA Policy

To verify the SS/SSI benefits of applicants, the HRA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives

social security benefits. If the family is unable to provide the document(s), the HRA will help the applicant request a benefit verification letter from SSA's website at www.socialsecurity.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 the HRA.

To verify the SS/SSI benefits of participants, the HRA 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, the HRA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the HRA will help the participant request a benefit verification letter from SSA's website at www.socialsecurity.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 the HRA.

For elderly and disabled families on fixed incomes, the HRA will use the HUD EIV System for the most current information and recalculate the family incomes by applying any published cost of living adjustments [Notice PIH 2013-26].

7-III.D. ALIMONY OR CHILD SUPPORT

HRA Policy

The HRA will seek verification for alimony and child support by the client providing previous 12 months of payment history. If the payments do not go through the court system, written third-party verification from the person paying the support must be notarized and provided.

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 HRA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

HRA Policy

The HRA will verify the value of assets disposed of only if:

The HRA 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 HRA verified this amount. Now the person reports that she has given this $10,000 to her son. The HRA 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 HRA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

HRA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant.

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, the HRA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

7-III.G. RETIREMENT ACCOUNTS

HRA Policy

The HRA will accept written third-party verification 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, the HRA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, the HRA 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 including verification of the amount contributed by the household.

After retirement, the HRA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments including verification of the amount contributed by the household.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The HRA must obtain verification for income exclusions only if, without verification, the HRA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the HRA will confirm that HRA records verify the child's age but will not require third-party verification of the amount earned. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

HRA Policy

The HRA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the HRA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

HRA Policy

The HRA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income.

Families cannot claim zero income for more than two consecutive months. If they do, the participant will have to supply information pertaining to how they are paying their bills and living expenses. Exceptions or unusual circumstances as to why the participant would need more than two months at a zero income status would have to be approved by the Section 8 Manager.

7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition and any other required fees and charges, 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 HRA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

HRA Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the HRA 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, the HRA will request written verification of the student's tuition amount and any other required fees and charges.

If the HRA is unable to obtain third-party written verification of the requested information, the HRA 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 his or her parents in accordance with HRA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

HRA Policy

If the HRA is required to determine the income eligibility of a student's parents, the HRA will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The HRA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the HRA. The required information must be submitted (postmarked) within 10 business days of the date of the HRA's request or within any extended timeframe approved by the HRA.

The HRA 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 HRA 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 HRA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The HRA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

HRA Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

The HRA will make a best effort to determine what expenses from the past are likely to continue to occur in the future.

The HRA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 month. Such declared and self-certified expenses require proof of purchase and payment at the following annual recertification. Failure to provide proof of purchase and payment will result in denying the expenses in the future.

In addition, the HRA must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The HRA 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 HRA'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.

HRA Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

HRA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the HRA 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

HRA Policy

The HRA will accept written third-party documents provided by the family.

If family-provided documents are not available. The HRA will provide a third-party verification form directly to the care provided 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.

Written 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 12 months.

Auxiliary Apparatus

HRA 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 12 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 12 months.

In addition, the HRA 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 HRA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The HRA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

HRA Policy

The HRA 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.

HRA 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. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the HRA must verify that:

- The child is eligible for care.

- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The HRA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

HRA Policy

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

If the child care provider is not a licensed facility, the family will be required to provide copies of cancelled checks or money orders documenting two months of payments as proof of payment or tax documents of unreimbursed child care expenses.

Pursuing an Eligible Activity

The HRA 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.

HRA Policy

Seeking Work

Whenever possible the HRA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the HRA will request family-provided verification from the agency of the member's job seeking efforts to date, and require the family to submit to the HRA any reports provided to the other agency.

In the event third-party verification is not available, the HRA will provide the family with a form on which the family member must record job search efforts. The HRA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The HRA will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The HRA will request third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could

be permitted to work, the work schedules for all relevant family members may be verified. This documentation may be provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

HRA Policy

The HRA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The HRA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child.

The HRA will verify that the child care 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 child care costs can be deducted.

HRA Policy

The actual costs the family incurs will be compared with the HRA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable. If the family presents a justification for costs that exceed typical costs in the area, the HRA 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 HRA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and HRA-established requirements. HQS inspections are required before the Housing Assistance Payments (HAP) Contract is signed and at least annually during the term of the contract.

HUD also requires the HRA to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and HRA 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 HRA 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 HRA 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 and Carbon Monoxide Detectors

A summary of HUD performance criteria is provided in Attachment 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- 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 HRA to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, the HRA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable. Attachment 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the 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.

HRA Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the HRA for review.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The HRA may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the HRA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The HRA 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.

HRA Policy

The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 15th and April 15th.

Clarifications of HUD Requirements

HRA Policy

As permitted by HUD, the HRA has adopted the following specific requirements that elaborate on HUD standards.

Walls and Ceilings

In areas where plaster or drywall is sagging, severely cracked, including large holes that may result in air infiltration or vermin infestation or is otherwise damaged, it must be repaired or replaced.

Ceilings with large holes and other serious defects must be repaired or replaced.

Owners will be required to scrape peeling paint and repaint all surfaces cited for peeling paint with 2 coats of non-lead paint (See HUD Guidebook 1.4 for further information about Lead Based Pain regulations/requirements). An extension may be granted as a severe weather related item as defined below.

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.

Window screens are required on all windows and must be in good condition.

All windows designed to open must be openable and lock securely.

Taping or caulking of window cracks is generally not acceptable.

The placement of a bed or other furniture in front of a window that blocks egress (no other window available escape) will need to be removed and relocated to another part of the room.

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 resecured 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 baseshoe, trim, or sealing for a "finished look." Vinyl baseshoe is permitted.

Broken, uneven or missing steps must be repaired or replaced.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

All sinks must have functioning stoppers.

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.

Emergency Back Up lights located in hallways and stairwells must be operating.

Double keyed deadbolt locks are not acceptable.

Electrical Specifications

Any surface mounted Romex wiring should be run in such a manner to be protected from any damage and all surface wiring is be to securely attached to structural components.

Cord or pull chain fixtures shall be cloth (non-metallic) in moisture areas (e.g., kitchen bathroom and basement).

If accessible, all missing light bulbs should be installed in order to close an open electrical socket.

Dead outlets or switches should be made operable or device removed, wires properly capped and a blank cover installed on box.

Electrical service panel shall have no open knock-outs.

A three-way switch must be installed for stairway lighting if there is a basement bedroom and lighting from the top of the stairs to the bedroom must be adequately continuous to permit a person to safely walk from the top of the stairs to the bedroom.

Infestation

The owner is responsible for treating vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The HRA may terminate the family's assistance on that basis.

Utilities

A ¾" overflow pipe must be present on the hot water heater safety valves and installed down to within 6 inches of the floor.

In units where the tenant must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption.

8-I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)] [Notice PIH 2017-20]

HUD requires the HRA 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 HRA notification.

The HRA may give a short extension (not more than forty-eight (48) additional hours) whenever the responsible party cannot be notified or it is impossible to correct the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the HRA.

HRA Policy

The HRA will use the life-threatening conditions as defined by HUD as published in Notice PIH 2017-20. The following are considered life threatening conditions:

Category	Life-Threatening Conditions
(1) Gas (natural or liquid petroleum) leak or fumes	• A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking. • A strong gas odor detected with potential for explosion or fire, or that results in health risk if inhaled.
(2) Electrical hazards that could result in	• A light fixture is readily accessible, is

shock or fire	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. • A receptacle (outlet) or switch has a missing or damaged cover plate 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 expose 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.
(3) Inoperable or missing smoke detector	• The smoke detector is missing. • The smoke detector does not function as it should.
(4) Interior air quality (inoperable or missing carbon monoxide detector)	• The carbon monoxide detector (where required) is missing. • The carbon monoxide detector does not function as it should.
(5) Gas/oil fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or	• The chimney or venting system on a fuel fired water heater is misaligned, negatively pitched, or damaged, which

misaligned chimney or venting	may cause improper or dangerous venting of 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 a fuel fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged which may cause improper or dangerous venting of gases.
(6) Lack of alternative means of exit in case of fire or blocked egress	• Any of the 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.
(7) Other interior hazards (missing or damaged fire extinguisher, where required)	• A fire extinguisher (where required) that is missing, damaged, discharged, overcharged, or expired. (This applies only if the PHA has adopted an acceptability criteria variation to the HQS to require fire extinguishers.)
(8) Lead-Based Paint	• Deteriorated paint surfaces in a unit built before 1978 and to be occupied by a family with a child under 6 years of age.
(9) Any other condition subsequently identified by HUD in a notice published in the Federal Register	N/A
(10) Any other condition identified by the HRA	Plumbing: Leaks or flooding; functioning toilet in unit. HVAC: Absence of working heating system when outside temperature is below 40 degrees Fahrenheit and inside unit is below 68 degrees Fahrenheit. Utilities: Utilities not in service,

	including no hot or cold water. Security: Broken locks on entrance doors or first floor windows.

If an owner fails to correct life threatening conditions as required by the HRA, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

If a family fails to correct a family caused life threatening condition as required by the HRA, the HRA may terminate the family's assistance. See 8-II.H.

The owner will be required to repair an inoperable smoke or carbon monoxide detector unless the HRA 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 or carbon monoxide detector within 24 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 family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which 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 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 LEVELS [24 CFR 35.1225] [PIH Notice 2017-13]

If a HRA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the HRA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the HRA, 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 HRA will take action in accordance with Section 8-II.G.

HRA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If the HRA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the HRA must issue the family a new voucher, and the family and HRA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HRA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405] [Notice PIH 2017-20]

Types of Inspections

The HRA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. The HRA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection as a result of only non-life threatening conditions before the effective date of the HAP Contract.
- *Biennial Inspections*. HUD requires the HRA to inspect each unit under lease on a biennial basis 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 annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be reinspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors.

Inspection of HRA-owned Units [24 CFR 982.352(b)]

The HRA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a HRA-owned unit. A HRA-owned unit is defined as a unit that is owned by the HRA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HRA). The independent entity must communicate the results of each inspection to the family and the HRA. The independent agency must be approved by HUD, and may be the unit of general local government for the HRA jurisdiction (unless the HRA is itself the unit of general local government or an agency of such government).

Inspection Costs

The HRA may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of HRA-owned units, the HRA may compensate the independent agency

from ongoing administrative fee for inspections performed. The HRA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The family must allow the HRA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

HRA Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:30 a.m. and 4:00 p.m.

Owner and Family Inspection Attendance

HUD permits the HRA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

HRA Policy

When a family occupies the unit at the time of inspection an adult family member must be present for the inspection. If the family is not going to be home, the head of household can authorize the owner or owner's representative to be present at the inspection.

At initial inspection of a vacant unit, the HRA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)] [Notice PIH 2017-20]

Timing of Initial Inspections

HUD requires the unit to pass HQS as a result of only non-life threatening conditions before the effective date of the lease and HAP Contract. HUD requires HRA's 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 days of submission of the Request for Tenancy Approval (RTA). For HRAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

HRA Policy

The HRA will complete the initial inspection, determine whether the unit satisfies HQS, as a result of only non-life threatening conditions and notify the owner and the family of the results in a reasonable, timely and efficient manner indicative of good customer service. If any of the HQS items are life-threatening, the owner will be notified, in writing, that these deficiencies must be corrected before the HRA can approve the tenancy.

If the unit has only non-life threatening conditions, the HRA will offer the family the choice to accept the unit or decline the unit and continue their housing search. The HRA will notify the family that if the owner fails to correct the non-life threatening deficiencies within the HRA specified timeframe, the HRA will terminate the HAP

contract, which is turn terminates the assisted lease and the family will have to move to another unit to continue receiving voucher assistance. If the family declines the unit, the HRA will inform the family of how much search time they have remaining.

If the family accepts the unit with the non-life threatening conditions, the HRA will notify the owner, that the HRA has approved the assisted tenancy and the owner has 30 calendar days from the date of notification to correct the non-life threatening issues, after which time the HRA will withhold the HAP until such time the unit is in compliance.

Inspection Results and Reinspections

HRA 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 the HRA for good cause. The HRA will reinspect the unit within 15 business days of the date the owner notifies the HRA that the required corrections have been made.

If the time period for correcting the deficiencies (or any HRA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, the HRA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The HRA 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.

HRA Policy

If utility service is not available for testing at the time of the initial inspection, the HRA will allow the utilities to be placed in service after the unit has met all other HQS requirements. The HRA will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by the HRA.

Appliances

HRA Policy

If the family is responsible for supplying the stove and/or refrigerator, the HRA 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 the HRA. The HRA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working.

8-II.C. BIENNIAL HQS INSPECTIONS [24 CFR 982.405(a)]

Scheduling the Inspection

Each unit under HAP contract must have a biennial inspection no more than 24 months after the most recent inspection.

HRA Policy

If an adult family member cannot be present on the scheduled date, the family can authorize the owner or owner's representative to be present at the inspection, or request that the HRA reschedule the inspection. The HRA and family will agree on a new inspection date that generally should take place within 15 business days of the originally-scheduled date. The HRA may schedule an inspection more than 15 business days after the original date for good cause.

The HRA will automatically schedule up to two (2) inspection appointments. If the family misses the scheduled inspections without HRA approval, the HRA 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.

The HRA reserves the right to inspect more frequently for marginal or higher risk units.

8-II.D. SPECIAL INSPECTIONS [HCV GB, p. 10-30]

The HRA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.

HRA Policy

The individual who reports the deficiency must contact the responsible party (owner or tenant) and provide evidence they have made an adequate attempt to have the responsible party remedy the issue prior to the HRA agreeing to conduct a special inspection.

During a special inspection, the HRA 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 days of the date the special inspection is scheduled the HRA 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 HRA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the HRA will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

HRA Policy

When life threatening conditions are identified, the HRA will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the HRA's notice.

When failures that are not life threatening are identified, the HRA will send the owner and the family a written notification of the inspection results. The written 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 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life threatening conditions are not corrected within the specified time frame (or any HRA-approved extension), the owner's HAP will be abated in accordance with 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 HRA-approved extension, if applicable) the family's assistance will be terminated in accordance with HRA policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the HRA cannot grant an extension to the 24 hour corrective action period. For conditions that are not life-threatening, the HRA may grant an exception to the required time frames for correcting the violation, if the HRA determines that an extension is appropriate [24 CFR 982.404].

HRA Policy

Extensions will be granted in cases where the HRA 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 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Reinspections

HRA Policy

The HRA will conduct a reinspection immediately following the end of the corrective period, or any HRA approved extension or obtain a certification from the owner and tenant that all work has been completed

For non-life threatening failures in occupied units, owners will be given the option of certifying that the defects have been corrected. An HRA provided Certification of Completed HQS Repairs form must be signed by the owner and submitted to the HRA by recertification date in order to avoid abatement.

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 reinspection, the HRA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with HRA policies. If the HRA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the HRA 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 HRA 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 HRA, HUD requires the HRA 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.

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 HRA must decide how long any abatement period will continue before the HAP contract will be terminated. The HRA 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 HRA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

<u>HRA Policy</u>

The maximum length of time that a HAP may be abated is 60 days. However, if the owner completes corrections and notifies the HRA before the termination date of the HAP contract, the HRA 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.

The HRA will provide a 30 day notice of HAP contract termination.

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 HRA (and any extensions), the HRA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until the HRA 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.

HRA-owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a HRA-owned unit, the HRA 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 HRA-owned unit is defined as a unit that is owned by the HRA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the HRA). The independent entity must communicate the results of the rent reasonableness determination to the family and the HRA. The independent agency must be approved by HUD, and may be the unit of general local government for the HRA jurisdiction (unless the HRA 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 HRA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The HRA (or independent agency in the case of HRA-owned units) will assist the family with the negotiations upon request. At initial occupancy the HRA 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.

> HRA Policy
>
> Changes in rent may be requested by the owner with 60 day notice to the HRA and the tenant at that time.

HRA-and HUD-Initiated Rent Reasonableness Determinations [PIH Notice 2018-01]

HUD requires the HRA 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 may also direct the HRA to

make a determination at any other time. The HRA may decide that a new determination of rent reasonableness is needed at any time.

HRA Policy

In addition to the instances described above, the HRA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the HRA determines that the initial rent reasonableness determination was in error or (2) the HRA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires the HRA to take into consideration the factors listed below when determining rent comparability. The HRA 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.

Units for which the owner has decided of his or her own decision to charge rents that are below what other tenants are charged and what the market might actually bear are not assisted units for purposes of rent reasonableness determinations. Rents for these particular units in the property must be considered to establish if an HCV rent to owner is reasonable.

In addition to HUD assisted units, the following units are also considered to be assisted units and must not be used as comparables:

- Units where the rents and/or rent increases are controlled or restricted by law or a court order, so long as the law or court order does not apply to voucher participants. The HRA is responsible for verifying the existence and applicability of the law or court order prior to excluding the units from the rent reasonableness determination.

- In cases of a property undergoing a Housing Conversion Action, units occupied by tenants on the date of the eligibility event who do not receive vouchers are considered assisted if the owner chooses to continue below market rents to those families by offering lower rents or other rent concessions to the impacted families. If the owner of such a property intends to charge lower rents to the non-voucher tenants at the time of conversion, the owner must provide written notice to the HRA and a list of the covered families, a description of the concession, the duration of the lower rents or concessions, the units in which the families are residing and copies of the families' leases. This applies to both new conversions and prior actions.

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 HRA 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 HRA information regarding rents charged for other units on the premises.

8-III.D. HRA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

HRA Policy

The HRA will collect and maintain data on market rents in the HRA's jurisdiction by means of an annual rent survey of all apartment buildings and private market rentals. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract and zones. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database.

How Rents are Determined

HRA 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 using the data collected from the rent survey. The HRA 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, the HRA 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 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 x 11 months = 5500/12 months = actual monthly rent of $488.

The HRA will notify the owner of the rent the HRA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The HRA 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 5 business days of the HRA'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

Uniform Physical Condition Standards for the Voucher Program (UPCS-V)**Sanitary Facilities**

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the HRA
- 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.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the HRA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors and Carbon Monoxide (CO) 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).

According to Minnesota Statute 299F.50 effective August 1, 2008, Carbon Monoxide alarms are required of all existing single family homes. Effective August 1, 2009, CO alarms are required for all multifamily housing, including duplexes through apartment complexes. These alarms must be installed in accordance with the manufacturer's installation instructions.

Hazards and Heath/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
- Uniform Physical Condition Standards for the Voucher Program (UPCS-V)

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 and carbon monoxide 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 HRA 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 HRA 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 HRA 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 HRA, 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 HRA 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 HRA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the HRA'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 HRA approval of the tenancy, the HRA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The HRA must also inform the owner or manager or their responsibility to comply with VAWA [24 CFR 5.2007(3)(ii)].

The HRA must provide the owner with the family's current and prior address (as shown in the HRA records); and the name and address (if known to the HRA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The HRA is permitted, but not required, to offer the owner other information in the HRA's possession about the family's tenancy [24 CFR 982.307(b)(2)].

If providing family behavior or suitability for tenancy information to the owner, the HRA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

HRA Policy

The HRA will not screen applicants for family behavior or suitability for tenancy.

The HRA will not provide additional screening information to the owner. (Unless written authorization is received from family requesting such.)

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 HRA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the HRA:

- 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 HRA 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 HRA 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].

HRA Policy

The RTA must be signed by both the family and the owner. Completed RTA must be submitted as hard copies, in-person, by mail, or by fax.

The family is responsible for submitting the RTA to the HRA. The family may not submit, and the HRA will not process, more than one (1) RTA at a time.

When the family submits the RTA, the HRA will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both),

the HRA will notify the family and the owner of the deficiencies.

Missing information will be accepted as hard copies, in-person, by mail, by fax or by phone.

When the family submits the RTA and proposed lease, the HRA 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, the HRA 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 mail or by fax. The HRA will accept corrections by email.

9-I.C. OWNER PARTICIPATION

The HRA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the HRA 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)]

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 HRA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

The HRA may <u>not</u> 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; or units occupied by its owner or by a person with any interest in the unit (not applicable to cooperatives or manufactured home owners leasing lot space).

HRA-Owned Units [24 CFR 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the HRA issuing the voucher may also be leased in the voucher program. In order for a HRA -owned unit to be leased under the voucher program, the unit must not be ineligible housing and the HRA 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 HRA-owned unit without any pressure or steering by the HRA.

<u>HRA Policy</u>

The HRA has eligible HRA-owned units available for leasing under the voucher program. The HRA will inform the family of this housing at the time of the briefing.

The HRA will also inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a HRA -owned unit without any pressure or steering the HRA.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, the HRA 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 HRA has chosen to allow.

The regulations do require the HRA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; the HRA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the HRA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

HRA Policy

The HRA 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 and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the HRA to approve a shorter initial lease term if certain conditions are met.

HRA Policy

The HRA will not approve a lease term of less than one (1) year.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

The HRA 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 HRA 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 HRA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

HRA Policy

The HRA prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants. The HRA will add this provision to Part A of the HAP contract, executed between the HRA and the owner.

When the tenant moves out of the dwelling 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 rent payable by the tenant, damages to the unit or for other amounts the tenant owes 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, if any, used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the tenant.

If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the HRA'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)].

HRA Policy

The HRA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

HRA Review of Lease

The HRA will review the dwelling lease for compliance with all applicable requirements.

HRA Policy

If the dwelling lease is incomplete or incorrect, the HRA will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. The HRA will accept missing and corrected information by email.

Because the initial leasing process is time-sensitive, the HRA will attempt to communicate with the owner and family by phone, fax, or email. The HRA will use mail when the parties can't be reached by phone, fax, or email.

The HRA 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 HRA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

HRA Policy

The HRA 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 HRA 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 HRA 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 HRA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the HRA, 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)].

HRA Policy

The HRA will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA are changed for any reason, the changes will be noted on the RTA as well as whom from the family and/or owner approved the change.

Corrections to the proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. The HRA will not accept corrections over the phone.

If the HRA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The HRA will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the family 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 HRA and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, the HRA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If the HRA has given approval for the family of the assisted tenancy, the owner and the HRA 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 HRA 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 HRA 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 HRA 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 HRA 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 HRA may not pay any housing assistance payment to the owner.

HRA Policy

Owners who have not previously participated in the HCV program must attend a meeting with the HRA in which the terms of the Tenancy Addendum and the HAP contract will be explained. The HRA may waive this requirement on a case-by-case basis, if it

determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the HRA. The HRA will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the HRA will execute the HAP contract. The HRA will not execute the HAP contract until the owner has submitted IRS form W-9. The HRA will ensure that the owner receives a copy of the executed HAP contract.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the HRA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, HRA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the HRA has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify the HRA of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The HRA 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 <u>not</u> found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

<u>HRA Policy</u>

Rent increases will go into effect on the first of the month of the annual recertification date following the 60 day period after the owner notifies the HRA of the rent change coinciding with the new lease date.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

[PIH Notice 2016-09]

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and HRA policies governing moves within or outside the HRA'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 HRA's HCV program, whether the family moves to another unit within the HRA's jurisdiction or to a unit outside the HRA'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 HRA's jurisdiction. This part also covers the special responsibilities that the HRA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the HRA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The family or 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)].

  HRA Policy

  If a family requests permission to move 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 the HRA will request documentation in accordance with Section 16-IX.D of this plan.

The HRA will allow the family to request an emergency transfer from the tenant's current unit to another unit. If such request cannot be honored, the HRA will offer the family a move with continued tenant based assistance (See Exhibit 16-3).

The HRA reserves the right to waive the documentation required if it determines that a statement of other corroborating evidence from the family or family member will suffice. In such cases the HRA will document the waiver in the family's file.

- 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)].

  HRA Policy

  If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the HRA a copy of the termination agreement at least 30 days prior to termination date.

- 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 HRA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The HRA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The HRA 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 HRA must issue the family a new voucher, and the family and HRA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the HRA 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 HRA 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 HRA may deny a family permission to move and two ways in which a HRA may restrict moves by a family.

Denial of Moves

HUD regulations permit the HRA to deny a family permission to move under the following conditions:

Insufficient Funding

The HRA may deny a family permission to move if the HRA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)]. However, Notice PIH 2016-09 significantly restricts the ability of the HRA to deny permission to move under portability due to insufficient funding. The requirements found in this notice are mandatory. For moves outside the HRA's jurisdiction under portability, no policy decisions are required.

HRA Policy

The HRA will deny a family permission to move on grounds that the HRA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the HRA; (b) the HRA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the HRA 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.

The HRA will inform families of this policy regarding moves denied due to insufficient funding in the briefing packet and in a letter to the specific family at the time the move is denied.

The family's request to move will be open for consideration for 90 days.

The HRA will notify the specific family in writing when funds become available.

Grounds for Denial or Termination of Assistance

The HRA will deny a family permission to move if the HRA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA allows exceptions to these grounds for denial or termination of assistance for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit. [24 CFR 982.353(b)]

HRA Policy

If the HRA has grounds for denying or terminating a family's assistance, the HRA 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. Refer to sections 3-III.G and 12-II.E for VAWA provisions.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the HRA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the HRA to prohibit more than one elective move by a participant family during any 12-month period.

HRA Policy

The HRA will deny a family permission to move if the family owes the HRA or any PHA money unless they are in a current Repayment Agreement.

The HRA will deny a family permission to make more than one move during any 12-month period. This policy applies to moves within the same complex, within the HRA's jurisdiction or outside it under portability.

The HRA 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), unit is sold by landlord, unit is in foreclosure, natural disaster, flood, or fire not caused by family, or to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area). The family must enter into a mutual termination of lease agreement with the owner.

In addition, the HRA 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 HRA 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 HRA's jurisdiction under portability, the notice to the HRA must specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2016-09]. The notices must be in writing [24 CFR 982.5].

HRA Policy

The family must provide the owner and the HRA a written notice 60 days prior to moving out of the old unit or terminating the lease.

Approval

HRA Policy

Upon receipt of a family's notification that it wishes to move, the HRA 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.

Reexamination of Family Income and Composition

HRA Policy

For families approved to move to a new unit within the HRA's jurisdiction, the HRA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the HRA's jurisdiction under portability, the HRA will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

HRA Policy

For families approved to move to a new unit within the HRA's jurisdiction, the HRA will issue a new voucher within 10 business days of the HRA's written approval to move. The HRA will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the HRA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the HRA's jurisdiction

under portability, the HRA 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 HRA 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 first PHA is called the **initial PHA.** The second is called the **receiving PHA.**

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own program funds, and the initial PHA has no further relationship with the family.

The same PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. The HRA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

10-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the HRA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and PHA policy, determines whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the HRA's jurisdiction under portability. However, HUD gives the HRA 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.

HRA Policy

In determining whether or not to deny an applicant family permission to move under portability because the HRA lacks sufficient funding or has grounds for denying assistance to the family, the HRA will follow the policies established in section 10-I.B of this chapter.

In addition, the HRA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

HRA Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the HRA's jurisdiction at the time the family's pre-application for assistance was submitted, the family must live in the HRA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

The HRA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). 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)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)].

HRA Policy

The HRA will determine whether a participant family may move out of the HRA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The HRA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice PIH2016-09].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not

income eligible in that area, the HRA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2008.43].

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), 24 CFR 982.355(c)(1)].

HRA Policy

The HRA will redetermine income if the family is outside the normal reexamination time frame.

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

HRA Policy

For a participant family approved to move out of its jurisdiction under portability, the HRA generally will conduct a reexamination of family income and composition.

The HRA 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 HRA to provide information on portability to all applicant families that qualify to lease a unit outside the HRA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

HRA Policy

A formal briefing will be required for a participant family wishing to move outside the HRA's jurisdiction under portability. The HRA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5). The HRA will provide the name, address, and phone of the contact for the HRA in the jurisdiction to which they wish to move. The HRA will advise the family that they will be under the receiving housing authority's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the HRA will follow the regulations and procedures set forth in Chapter 5. A new voucher is not required for portability purposes.

HRA Policy

For families approved to move under portability, the HRA will issue a new voucher at the briefing.

The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

HRA Policy

The HRA will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the HRA'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 HRA'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 HRA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction no later than 90 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.)

Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(2)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2016-09]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(2)].

HRA Policy

Because the portability process is time-sensitive, the HRA will notify the receiving PHA by fax to expect the family. The HRA will mail the complete portability packet. The HRA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The HRA will pass this information along to the family. The HRA 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)(4), 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)(4), Notice PIH 2016-09]

HRA Policy

In addition to these documents, the HRA will provide the following information, if available, to the receiving PHA:

Documentation of social security numbers (SSNs) for all family members

Documentation of legal identity

Documentation of citizenship or eligible immigration status

The family's EIV data will be in a separate envelope marked "confidential"

Request for Tenancy Approval

Most recent application form

Documentation of participation in the earned income disallowance (EID) benefit

Documentation of participation in a family self-sufficiency (FSS) program

Family Information Worksheet

40% Subsidy Calculation Sheet

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. This deadline is no later than 90 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

HRA Policy

If the HRA has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the PHA reports that the family is not yet under HAP contract and that the voucher was suspended, the HRA will extend the billing deadline by 30 days. Thereafter, the HRA will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The HRA will send the receiving PHA a written confirmation of its decision by mail.

The HRA 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 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 overleasing 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.

> HRA Policy
>
> The HRA will process monthly billing requests with its monthly HAP check run. Initial billings will be processed as soon as they are received by the HRA unless it is within five days of monthly HAP check run.

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 HRA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(7)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].

Initial Contact with Family

When a family moves into the HRA's jurisdiction under portability, the family is responsible for promptly contacting the HRA and complying with the HRA's procedures for incoming portable families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, the HRA, as the receiving PHA, does not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2016-09].

When a portable family requests assistance from the HRA, the HRA as the receiving PHA must promptly inform the initial PHA whether the HRA 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 HRA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2016-09]. (See later under "Absorbing a Portable Family" for more on this topic.)

HRA Policy

Within 10 business days after a portable family requests assistance, the HRA will notify the initial PHA whether it intends to bill the initial PHA on behalf of the portable family or absorb the family into its own program.

If for any reason the HRA 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].

HRA Policy

The HRA will require the family to attend a briefing. The HRA will provide the family with a briefing packet and, in an individual briefing, will orally inform the family about the HRA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 CFR 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2016-09, 24 CFR 982.201(b)(4)]. The receiving PHA does not redetermine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(1)].

HRA Policy

For any family moving into its jurisdiction under portability, the HRA will generally rely upon the income information provided by the initial PHA and will not conduct a new reexamination of income and composition for incoming portable families.

The HRA will rely upon any verifications 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 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

If the HRA opts to conduct a new reexamination, the HRA will not delay issuing the family a voucher or otherwise delay approval of a unit unless the reexamination is necessary to determine income eligibility or affordability.

The HRA will determine the family's applicable subsidy standard and issue a voucher in accordance with the subsidy standards in Chapter 5.II.B.

The HRA will conduct tenant screening for all families moving into its jurisdiction under portability, in accordance with its policies in Chapter 3.III.D.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2016-09].

HRA Policy

When a family ports into its jurisdiction, the HRA 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 the HRA's procedures. The HRA 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 the term of the initial PHA's voucher [24 CFR 982.355(c)(6)].

Voucher Extensions [24 CFR 982.355(c)(6), Notice 2008-43]

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

HRA Policy

The HRA generally will not extend the term of the voucher that it issues to an incoming portable family unless the HRA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The HRA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2) and with the approval of the initial PHA.

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(8)]. The HRA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), 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 HRA, as 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

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 90 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-09]. 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.

> HRA Policy
>
> The HRA will send its initial billing notice by e-mail or regular mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is overleased) [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.

> HRA Policy
>
> The HRA will send a copy of the updated HUD-50058 by regular mail at the same time the HRA and owner are notified of the reexamination results.

Change in Billing Amount. The HRA, as 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 business days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

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 HRA 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 HRA 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 HRA, as 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)(9), 24 CFR 982.355(c)(10)].

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].

HRA Policy

If the HRA elects to deny or terminate assistance for a portable family, the HRA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The HRA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The HRA 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 (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in overleasing [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, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family. [Notice PIH 2016-09]

HRA Policy

The HRA will generally not absorb families under portability into its program as long as there are eligible applicants on its waiting list for assistance. If the HRA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the HRA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the HRA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

Chapter 11

REEXAMINATIONS

INTRODUCTION

The HRA 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 HRA 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 HRA 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. SCHEDULING ANNUAL REEXAMINATIONS

The HRA 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].

> HRA Policy
>
> The HRA will begin the annual reexamination process 90 days in advance of its scheduled effective date.
>
> If the family moves to a new unit, the HRA will perform a new annual reexamination.

Notification of and Participation in the Annual Reexamination Process

The HRA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the HRA. However, the HRA should

give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

HRA Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household and all members 18 years of age or older. If participation in an in-person interview poses a hardship because of a family member's disability or medical condition, the family should contact the HRA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. The letter includes instructions permitting the family to reschedule the interview if necessary and for those who may need alternate arrangements due to a disability that they may request a reasonable accommodation. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the HRA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the HRA will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HRA 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.

11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the HRA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

HRA Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The families will be required to complete and sign a reexamination application form, an Authorization for the Release of Information/Privacy Act Notice, and Applicant Tenant Certification, and Statement of Family Responsibilities as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents, or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview or no later than the end of the interview/recertification month. If the family does not provide the required documents or information within the required time frame, the family will be sent a notice of termination (See Chapter 12). Untimely submission of on-going medical expenses will not be included in the annual recertification calculation and revisions or corrective actions cannot be approved due to the administrative burden it causes. The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a

change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- 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 HRA must issue the family a new voucher, and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HRA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

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

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, 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 in accordance with HRA 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.

HRA Policy

During the annual reexamination process, the HRA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the 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 HRA will process a reexamination in accordance with the policies in this chapter.

11-I.E. EFFECTIVE DATES

The HRA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

HRA 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 reexamination date and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-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 30-day notice is required.

If the HRA 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 the HRA, but will always allow for the 30-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 reexamination date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the HRA by the date specified, and this delay prevents the HRA from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

11-II.A. OVERVIEW

Family circumstances may change throughout the period between annual reexaminations. HUD and HRA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the HRA must process interim reexaminations to reflect those changes. HUD regulations also permit the HRA to conduct interim reexaminations of income or family composition at any time. [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 HRA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and HRA policies describing what changes families are required to report, what changes families may choose to report, and how the HRA will process both HRA and family-initiated interim reexaminations.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The HRA must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the HRA has limited discretion in this area.

HRA Policy

The HRA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HRA approval. However, the family is required to promptly notify the HRA of the addition [24 CFR 982.551(h)(2)].

HRA Policy

The family must inform the HRA of the birth, adoption or court-awarded custody of a child within 10 calendar days. The family must disclose and provide documentation of the child's SSN within 90 days of birth, adoption or custody award.

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 HRA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

When any new family member is added, the HRA must conduct a reexamination to determine any new income or deductions associated with the additional family member and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the HRA must issue the family a new voucher, and the family and HRA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HRA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

HRA Policy

Families must request HRA 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 14 days within a 12-month period, and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the HRA *prior* to the individual moving into the unit. The HRA must receive landlord verification that the new family member has been added to the lease.

The HRA will not approve the addition of a new family or household member unless the individual meets the HRA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The HRA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the HRA determines an individual meets the HRA's eligibility criteria and documentation requirements, the HRA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

If the HRA determines that an individual does not meet the HRA's eligibility criteria or documentation requirements, the HRA 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.

The HRA will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the HRA, in writing, 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 HRA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

HRA Policy

If a household member ceases to reside in the unit, the family must inform the HRA in writing within 10 calendar 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. The family must also provide landlord verification that the household member has been removed from the lease.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the HRA within 10 calendar days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the HRA 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 HRA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

HRA-Initiated Interim Reexaminations

HRA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the HRA. They are not scheduled because of changes reported by the family.

HRA Policy

For families receiving the Earned Income Disallowance (EID), the HRA will conduct interims as follows:

- At the onset of the 24 month EID program (initial 12-month period)
- At the beginning of the second and final period (phase-in period)
- At the completion of the 24-month EID program

Family-Initiated Interim Reexaminations

The HRA 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)].

HRA Policy

Participants must report all income increases within 10 calendar days. The HRA will follow Section 11-II.D. Processing the Interim Reexamination.

Required Reporting

HUD regulations give the HRA the freedom to determine the circumstances under which families will be required to report changes affecting income.

HRA Policy

Participants must report an increase in income. The HRA will calculate the change when an increase in income is $200 or more per month. If the increase in income occurs with the 90-day annual recertification process, the change will be made and effective on the

annual recertification date.

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 HRA 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.

HRA Policy

Participants may report a decrease in income and other changes, which would reduce the amount of tenant rent, such as an increase in allowances or deductions. If the decrease in average income is $100 or more per month, an interim will be done for the following month provided the documentation is submitted by the 20th of the month and the client is not in the annual recertification process. If the decrease in income occurs within the 90-day annual recertification process, the change will be made and effective on the annual recertification date. If a family has no income for a week or two due to illness, vacation, etc. no interim change will be done. An interim is done when there is a pattern of average income change for more than one month or expected change of more than 30 days such as a job termination. Change in expenses are fully reviewed at annual reexamination and an interim reexamination is only warranted on a case-by-case basis for significant changes.

11-II.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

HRA Policy

The family must notify the HRA of changes in writing.

Based on the type of change reported, the HRA will determine the type of documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the HRA. This time frame may be extended for good cause with HRA approval. The HRA will accept required documentation by mail, by fax, email, or in person.

Effective Dates

The HRA 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].

HRA Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

If the decrease in income is less than $100 per month a change would not be warranted and no interim will be done. If the decrease in income is $100 or more per month, an interim will be done for the following month provided the documentation is submitted by the 20th of the month and the client is not in the annual recertification process. If the decrease in income occurs within the 90-day annual recertification process, the change will be made and effective on the annual recertification date.

Child support income decreases will only be considered if a family can provide proof of zero child support payments for at least two consecutive months.

The HRA will make exceptions to this if warranted on a case-by-case basis.

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 HRA 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 HRA'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 HRA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the HRA'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*, the decreased payment standard will be applied at the *second annual* 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 HRA'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 HRA'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 HRA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the HRA must use the HRA current utility allowance schedule [24 CFR 982.517(d)(2)].

<u>HRA Policy</u>

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

The HRA will use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the voucher size issued, as determined under the HRA's subsidy standards.

In cases where a reasonable accommodation has been provided to the family that includes a person with disabilities, the HRA will use the appropriate utility allowance for the size of the dwelling unit actually leased by the family.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The HRA 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 HRA'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).

HRA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment. The notice also will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, the HRA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the HRA may discover errors made by the HRA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 14.

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which a PHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the PHA based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the HRA may consider in lieu of termination, the criteria the HRA must use when deciding what action to take and the steps the HRA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the HRA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the HRA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the HRA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of HRA subsidy goes down. If the amount of HCV assistance provided by the HRA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

HRA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the HRA of the changed circumstances and request an interim reexamination *before* the 20th of the month preceding the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the HRA terminate the family's assistance at any time.

HRA Policy

The request to terminate assistance should be made in writing and signed by the head of household. Request to terminate assistance will be taken over the phone if the family is unable to do so in writing. Before terminating the family's assistance, the HRA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the HRA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), Pub.L. 109-162]

The HRA 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. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

HRA Policy

A family will be considered *evicted* and the HRA will take action to terminate assistance if the HRA receives a court ordered judgement on behalf of the owner for serious or repeated lease violations and the 15-day appeal period has passed.

If a family moves after the owner has given the family a lease termination 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 the HRA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, the HRA 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, utilities or other fees, disturbance of neighbors, unauthorized guests, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The HRA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The HRA 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 HRA, 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 noncitizen household members approved by the HRA and where the family's assistance has been prorated as a mixed family. 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 2010-3]

The HRA must terminate assistance if a participant family fails to disclose the complete and accurate social security number of each household member and the documentation necessary to verify each social security number.

If the family; however, is otherwise eligible for continued program assistance, and the HRA 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 HRA 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 HRA determined the family to be noncompliant.

> HRA Policy
>
> The HRA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The HRA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, 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 HRA must the 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 HRA 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), Notice PIH 2010-9]

The HRA 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 HRA to establish policies that permit the HRA to terminate assistance if the HRA 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

Use of Illegal Drugs and Alcohol Abuse

HRA Policy

The HRA will terminate a family's assistance if any household member is currently engaged in any illegal use and/or possession of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HRA will terminate assistance if any household member's abuse or have a pattern of abuse of alcohol which 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 twelve months.

The HRA 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 conviction for criminal activity will be given more weight than an arrest for such activity.

In making its decision to terminate assistance, the HRA 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, the HRA 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.

HRA Policy

The HRA will terminate a family's assistance if any household member or household guest has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The HRA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members or household guests related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity. A conviction for criminal activity will be given more weight than an arrest for such activity.

In making its decision to terminate assistance, the HRA 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, the HRA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), Pub.L. 109-162]

HUD permits the HRA to terminate assistance under a number of other circumstances. It is left to the discretion of the HRA whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act of 2013 explicitly prohibits the HRA from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

HRA Policy

The HRA **will** terminate a family's assistance if:

The family and/or its guests have failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related HRA policies.

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

The family currently owes rent or other amounts to any PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the HRA. The HRA, at its discretion, may offer a family the opportunity to enter into an agreement pay amounts owed to the HRA as an alternate to termination. The HRA may prescribe the terms of the agreement.

The family has failed to provide proper 60 day notice to both the HRA and the owner prior to moving from an assisted unit or terminating the lease.

The family has failed to attend an annual reexamination, inspection, or other pre-scheduled appointment.

The family has committed serious or repeated violations of the lease.

The family has a member who becomes or is subject to a lifetime registration requirement under a State sex offender registration program.

A family member or a guest has engaged in or threatened violent or abusive behavior toward HRA personnel.

Abusive or violent behavior towards HRA 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, the HRA 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, the HRA 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 HRA 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.

HRA Policy

- Families must notify the HRA if any member will be absent from the unit for more than 30 consecutive days.
- If the family is absent from the unit for more than 60 consecutive calendar days, the family's assistance will be terminated. Reasonable accommodation for a person with a disability may be requested. Notice of termination will be sent in accordance with Section 12.II.E.

Insufficient Funding [24 CFR 982.454]

The HRA may terminate HAP contracts if the HRA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

HRA Policy

The HRA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the HRA determines there is a shortage of funding, prior to terminating any HAP contracts, the HRA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the HRA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the HRA will inform the local HUD field office. The HRA will terminate the minimum number needed in order to reduce HAP costs to a level within the HRA's annual budget authority.

If the HRA must terminate HAP contracts due to insufficient funding, the HRA will do so in accordance with the following criteria and instructions:

The HRA will terminate HAP contracts starting with Category 1 families. The HRA will only move to the next category when there are no families remaining in the current category and more HAP contract terminations are necessary.

Category 1: Families who have committed program fraud or abuse within the past 6 months.

Within each group below, the HRA will terminate HAP contracts according to the date the HRA first notified the family of the debt, starting with the most recent. If more than one family received notice on the same day, the HRA will rank the notices for that date using a random method.

First, the HRA will terminate families who owe the HRA money but are not yet under repayment agreement.

Second, the HRA will terminate families who owe the HRA money, are under repayment agreement, but have made at least one late payment.

Third, the HRA will terminate families who owe the HRA money, are under repayment agreement, and have made all payments in accordance with the repayment agreement.

Fourth, the HRA will terminate families who are under a compliance agreement.

Category 2: Families who committed program fraud or abuse 6-12 months ago.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The HRA is required by regulation to terminate a family's assistance if certain program rules are

violated. For other types of offenses, the regulations give the HRA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the HRA may choose to take when it has discretion, and outlines the criteria the HRA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which the HRA terminates assistance depends upon individual circumstances. HUD permits the HRA to terminate assistance by:

Terminating housing assistance payments under a current HAP contract,

Refusing to approve a request for tenancy or to enter into a new HAP contract, or

Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the HRA 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)].

HRA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member or guest 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 or guest's current address upon HRA request.

Repayment of Family Debts

HRA Policy

If a family owes amounts to the HRA, as a condition of continued assistance, the HRA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the HRA of the amount owed. See Chapter 16 for policies on repayment agreements. The family can only have one repayment agreement.

Compliance Agreements

HRA Policy

If a family is being considered for termination under "Other Authorized Reasons for Termination of Assistance" and the actions or non-actions by the family are deemed as non-egregious, the HRA may require the family to enter into a compliance agreement as a condition of continued assistance. The family can only have one compliance agreement.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the HRA 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)].

HRA Policy

The HRA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

The HRA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

HRA Policy

The HRA will consider the following factors when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents.

The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.

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

The HRA 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 HRA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

HRA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the HRA will determine whether the behavior is related to the disability. If so, upon the family's request, the HRA will determine whether alternative measures are appropriate as a reasonable accommodation. The HRA 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, or stalking. For general VAWA requirements, key VAWA definitions, and HRA 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 do the limitations discussed under the next heading.)

First, VAWA provides that the HRA 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 HRA, 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 982.314(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 a 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 give 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 2.005(d) and (e)]

VAWA does not limit the authority of the HRA 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 HRA 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 the HRA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, or stalking if the HRA 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)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize the HRA 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)].

HRA Policy

In determining whether a 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, the HRA 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 a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location.

If the tenant wishes to contest the HRA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]

HRA Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the HRA will request that the individual provide documentation supporting the claim in accordance with the policies in Section 16-IX.D of this plan.

The HRA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the HRA will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator [24 CFR 5.2005(c)]

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the HRA 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, 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 HRA 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 HRA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [Final Rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.]

HRA Policy

- The HRA will terminate assistance to a family member if the HRA 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, the HRA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the HRA by the victim in accordance with this section and Section 16-IX.D. The HRA will also consider the factors in Section 12-II.D. Upon such consideration, the HRA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.
- The remaining family members must agree that the family member whose assistance is being terminated pursuant to this policy will be excluded from the assisted unit and will not be permitted to return to the assisted unit for any purpose or at any time without prior approval of the HRA.
- If the HRA 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 [HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the HRA must give the family and the owner written notice that specifies:

The reasons for which assistance has been terminated (family notice only)

The effective date of the termination

The family's right to an informal hearing as described in Chapter 16

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

HRA Policy

When termination is initiated by the HRA, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the HRA, 30 days

notice will not be given. In these cases, the notice to terminate will be sent at the time the HRA learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the HRA (see section 12-I.C.). The HRA will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The HRA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the HRA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the HRA either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

HRA Policy

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641]. The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; the HRA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162]

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, or stalking against that participant. This includes failure to pay rent or other amounts due under the lease. However, the HRA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);

Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

Any violent criminal activity on or near the premises; or

Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or

Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction,

except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking. (See Section 12-II.E.).

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

Failure by the family to accept the offer of a new lease or revision;

The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or

A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the HRA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the HRA a copy of any eviction notice (see Chapter 5).

HRA Policy

If the eviction action is filed in court, the owner and the tenant must provide the HRA with documentation related to the eviction, including a copy of the Summons and Complaint in the court action, as soon as possible.

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, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA). (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 HRA has no other grounds for termination of assistance, the HRA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: APPLICANT/TENANT CERTIFICATION AND STATEMENT OF TENANT OBLIGATIONS

1)Giving True and Complete Information

I certify that the information given to the Plymouth Housing and Redevelopment Authority (HRA) on household composition, income, assets, allowances and deductions is accurate and complete to the best of my knowledge and belief. I understand that after verification by the HRA, the information will be submitted to the U.S. Department of Housing and Urban Development. See the Federal Privacy Act Statement for more information about its use.

I understand that I must supply any information that the HRA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.

2)Cooperation

I understand that I am required to cooperate in supplying all information needed to determine my eligibility, level of benefits, or verify my true circumstances. Cooperation includes attending pre-scheduled appointments, completing and signing needed forms, providing requested information in a timely manner, and disclosing and verifying the Social Security Numbers for all family members. I understand failure or refusal to cooperate will result in termination of assistance.

I understand if I enter into a compliance agreement or a repayment agreement with the HRA that I must comply with all provisions of the agreement or my assistance will be terminated. I also understand that if I am not current on a repayment agreement with the HRA, my assistance will be terminated.

3)Reporting Changes to Household Size

I certify that the members of my household, which I have listed on my application, are the only people that live/stay in my housing unit.

I understand that I must notify the HRA within 10 calendar days of any change in my household members including the birth, adoption or court awarded custody of a child. If I choose to add an additional adult to my household, a criminal background check will be conducted, their income and bank account will be verified and my rent portion will be recalculated.

I understand that I must request in writing and get prior approval from the HRA and my landlord before adding an additional household member as an occupant of the unit, including foster children, foster adults, and live-in aides. If an additional member is approved, my rent portion will be recalculated incorporating all household income.

I understand I must report in writing within 10 calendar days if any member moves out of my unit.

I understand I must request in writing and get prior approval from the HRA if my family or any member of my family is planning to be away from the unit for more than 30 calendar days. The HRA will then notify me of what steps I need to take.

I understand the HRA may allow an absence for 180 consecutive days or less for reasons including educations activities, employment, placement in foster care, illness, military deployment, incarceration and court order. All other absences for an individual or the entire

family cannot exceed 60 days.

I understand that I can have visitors stay with me on a "temporary" basis, and I understand that "temporary" is considered to be no more than a total of 14 days in a 12 month period. I understand that a visitor is a person who can verify a permanent address elsewhere. I must obtain prior approval from the HRA if I plan to have someone stay with me for more than 14 days.

I understand that failure to report to the HRA any and all changes to my household members or to obtain prior approval to add a member will result in termination of my housing assistance.

4)Reporting Changes in Household Income

I certify that I will notify the HRA in writing of all income increases in my household within 10 calendar days of the change. I understand that I must provide proof of all changes. Once a change is reported to the HRA, the information will be verified and the HRA will notify me of whether or not my rent portion will change.

I understand that:

a. Increase of unearned income or employment income must be reported within 10 calendar days of being hired, promoted, or receiving a raise.

b. My rent will be recalculated when there are changes in household members to reflect total household income.

c. If my household reports no income a maximum of two consecutive months of zero income are granted; thereafter, the family is required to undergo a zero income self-certification.

d. I may report a decrease in household income of $100 or more per month. An interim will be considered for the following month provided the proper documentation is submitted by the 20th of the month and I have paid on the income previously reported (example: constant stop and start of income). I understand an interim will not be granted if I am currently in the annual recertification process. An interim is done when there is a pattern of income change for more than one month.

I understand that if my income increases to a point where my portion equals the full rent, my assistance will terminate after six consecutive months of no assistance payments.

I understand that if I fail to report any and all increases in my household income that I will be required to pay back overpaid benefits due to untimely reporting or non-cooperation with information requests and that my housing assistance may be terminated.

5)Moving

I understand that the HRA only approves leases that begin on the 1st of the month and have a 12 month term.

I understand that the HRA will only approve one move within a 12-month period of time. I understand that a mutual termination of lease must be submitted if the agreement is made to terminate the lease before the end of the previously agreed upon term.

I understand that if I want to receive assistance for the first of the month in another housing unit, including another unit in the same building, I am required to give the HRA a proper 60 day written notice. I am also required to give the landlord a proper notice as explained in my lease.

I understand that I must vacate my current unit in "good standing" if I want to receive assistance in a new unit. Examples of not leaving in "good standing" include, but are not limited to: leaving the unit with damage beyond normal wear and tear, failing to give proper notice to the landlord and the HRA, and owing money to the landlord or HRA.

I understand that if I move to a new unit, the HRA cannot guarantee uninterrupted assistance. Gaps in assistance may be more likely if I move to another housing agency's area, due to different deadlines. I will be prepared to pay the first month's full rent.

6)National Portability

I understand that I may use my housing choice voucher anywhere in the United States where a tenant-based housing assistance program is administered. However, I understand if I am receiving assistance for the first time I will be required to living in the Plymouth HRA's jurisdiction for 12 months prior to using the portability feature.

7)Request for Tenancy Approval Deadline

I understand that after I give the HRA a proper 60 day written notice to move, I am required to submit a completed Request for Tenancy Approval (RTA) form with information of my new housing unit to the HRA by 4:30 p.m. on the 15th of the month for rent assistance to begin on the 1st of the following month. If the 15th falls on a weekend or holiday, I have until 4:30 p.m. on the next working day to supply the RTA. For moves outside of the Plymouth HRA jurisdiction, the RTA must be returned by the 10th of the month for assistance to be possibly processed for the first of the following month (depending on the receiving housing authority's policy).

I understand I am responsible to ensure the RTA is received by the HRA office by the deadline. If the RTA is not at the HRA office by this deadline, my assistance in this new housing unit will be delayed at least one month.

8)Units Owned by Relatives

I understand that I must **not** receive housing choice voucher program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, site or brother of any member of my family, unless the HRA has determined, and has notified the owner and my family of such determination that approving rental of the unit would provide reasonable accommodation for a family member who is a person with disabilities.

9)Inspections

I understand that the HRA is required to inspect and approve all assisted housing units before assistance begins and thereafter on a biennial basis.

I understand that if the inspection does not pass or is not done on or before the 1st working day of the month, the assistance will not begin until the day the unit passes. The HRA rent portion will be prorated based on a 30 day month. I understand that it is my responsibility to negotiate the rent difference with my landlord.

I understand for new or move-in inspections that if the unit is occupied by another family or the inspector cannot get into the unit early, the inspection will be done on the 1st working day of the month.

I understand for biennial inspections, that I will be notified of the date and time. I understand that I am required to make sure that the inspectors can get in to my unit for the inspection. I

understand that if I fail to cooperate by not allowing entry into my unit or canceling more than twice my assistance will be terminated.

10)Landlord Claims for Unpaid Rent, Damages, Vacancy Loss

I understand if I vacate a unit with rent owed to the landlord, vacate without proper notice to the landlord, and/or cause damage to the unit that the owner has the ability to withhold my security deposit and make a claim against me to cover any additional expenses. The HRA has no liability to cover any of the expenses. It is between the landlord and me to resolve any issues.

11)HRA Owned Units

The HRA has informed me that I have the right to select any eligible unit available to lease. I understand that I am free to rent from any landlord who is willing to work with the rent assistance program. If I choose to rent a unit owned by the HRA, it will be freely selected without pressure or steering from HRA.

12)No Duplicate Residence or Assistance

I certify that I will use the unit assisted by the HRA as my residence and it will be my only residence.

I understand that I cannot sublease the unit, assign the lease or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs from or on behalf of a person living in the unit who is not listed as a household member. I understand that my assistance will be terminated if I sublease the unit or assign the lease or transfer the unit.

I certify that I am not and will not receive assistance while receiving another housing subsidy for the same unit or a different unit under any other federal, state or local housing assistance program.

I certify that I do not own or have any ownership interest in the unit. I understand the unit cannot be occupied by the owner. I understand that I cannot receive assistance when renting from a relative, unless approved by the HRA as a reasonable accommodation for disabled families.

13)Side Payments

I understand that I am not allowed to pay the difference between the landlord proposed rent and the HRA approved rent. This is considered a side payment and is grounds for termination of assistance.

14)Lease Violations

I understand that my family must not commit any serious or repeated violation of the lease. Serious and repeated lease violations will include but not be limited to nonpayment of rent, utilities or other fees, disturbance of neighbors, unauthorized guests, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity.

I understand serious and/or repeated lease violations may be cause for termination of assistance. I understand if I, a household member or a guest of mine, damage the unit of premises beyond normal wear and tear that my assistance may be terminated.

I understand that if I, or anyone in my household, violate a provision of my lease and the landlord wins an eviction against me, the HRA will terminate my assistance. I understand that I must give the HRA a copy of lease termination notice received from the owner or any Summons

and Complaint in an eviction action that is received by the family, within 10 business days.

15)Criminal Activity

I understand that I must promptly notify the HRA in writing of any involvement in criminal or illegal activity by a member or guest of my household. I further understand that involvement in criminal activity will result in termination of my rental assistance.

I understand that members of my household must not engage in drug-related criminal activity, violent criminal activity, or other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents.

I understand that members of my 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.

I understand that members of my household must not engage in or threaten abusive behavior toward HRA personnel.

16)Criminal and Administrative Action for False Information

I understand that family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. I understand that false statements or information are punishable under Federal law.

I understand that the Plymouth HRA may deny or terminate program assistance if any member of the family has engaged in or threatened abusive or violent behavior toward Plymouth HRA personnel. Abusive or violent behavior includes verbal as well as physical abuse or violence. Threatened refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

I understand that false statements or information are grounds for termination of housing assistance and could result in theft and fraud charges under state and federal laws.

Chapter 13

OWNERS

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term "owner" includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

> Part I: Owners in the HCV Program. This part discusses the role of an owner in the HRA'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 HRA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including HRA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

The HRA is responsible for ensuring that very low income families have access to all types and ranges of affordable housing in the HRA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the HRA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the HRA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, the HRA must identify and recruit new owners to participate in the program.

> HRA Policy
>
> The HRA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The HRA 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

Participate in community based organizations comprised of private property and apartment owners and managers

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the HRA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

HRA Policy

All HRA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The HRA will hold periodic seminars or meetings with current and prospective owners explaining and updating the program.

The HRA will send out an annual newsletter to owners and apartment managers informing them of any program changes.

Participate in Crime-Free Multi-Housing Training sessions as needed.

The HRA will give special attention to helping new owners succeed through activities such as:

Providing the owner with a designated HRA contact person.

Providing written information about how the program operates, including answers to frequently asked questions.

Providing program information as well as frequently used forms on the HRA Website.

Provide referrals of vacant units.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the HRA to aid families in their housing search by providing the family with a list of landlords or other parties known to the HRA who may be willing to lease a unit to the family, or to help the family find a unit. Although the HRA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the HRA 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)].

HRA Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HRA. The HRA will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet

When a family approaches an owner to apply for tenancy, the owner is responsible for screening

the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The HRA 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 HRA, 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 that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The HRA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

The HRA must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, the HRA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The HRA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed

by HUD. See chapter 9 for a discussion of the HAP contract execution process. Specific HAP contract provisions and responsibilities are discussed later in this chapter 13.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- 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 HRA information required under the HAP contract
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from the HRA), and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services (unless paid by the family under the lease)
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Comply with the Violence Against Women Reauthorization Act of 2013 (VAWA) when screening and terminating tenants.

13-I.D. OWNER QUALIFICATIONS

The HRA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the HRA 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 HRA must not approve the assisted tenancy if the HRA 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 HRA 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 HRA must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The HRA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners

and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

The HRA 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 HRA (except a participant commissioner)
- Any employee of the HRA, or any contractor, subcontractor or agent of the HRA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The HRA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the HRA must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the HRA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the HRA or assistance under the HCV program for an eligible HRA 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 HRA, description of the nature of the investment, including disclosure/divestiture plans.

Where the HRA has requested a conflict of interest waiver, the HRA may not execute the HAP contract until HUD has made a decision on the waiver request.

HRA Policy

In considering whether to request a conflict of interest waiver from HUD, the HRA will consider the following factors: the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit the HRA, at the HRA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the HRA 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].

HRA Policy

The HRA will refuse to approve a request for tenancy if the HRA 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 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 HCV 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 the HRA, 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;

The owner has a history or practice of renting units that fail to meet state or local housing codes; or

The owner has not paid state or local real estate taxes, fines, or assessment.

The owner has not attended a required landlord briefing session.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the HRA 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 HRA may, on a case-by-case basis, choose to approve an owner.

The HRA will notify the owner in writing if they are being disapproved from participating in the HCV Program.

Legal Ownership of Unit

The following represents HRA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

HRA Policy

The HRA 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., Hennepin County database, 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, creed, sexual orientation, marital status, disability, or receipt of public assistance in connection with any actions or responsibilities under the HCV program and the HAP contract with the HRA.

The owner must cooperate with the HRA 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 HRA.

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 HRA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the HRA's obligations. Under the HAP contract, the HRA agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in the HRA's HCV program.

If the HRA has given approval for the family of the assisted tenancy, the owner and the HRA execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of HRA and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, the HRA does 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. HRA policy on the amount of security deposit an owner may collect is found in chapter 9.

In addition, the HRA has the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the HRA is deemed received by the owner (e.g., upon mailing by the HRA or actual receipt by the owner).

> HRA Policy
>
> The HRA has not adopted a policy that defines when the housing assistance payment by the HRA 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
- HRA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- HRA 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 HRA. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

13-II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the HRA 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 HRA 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 HRA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the HRA HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and the HRA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the HRA, the excess amount must be returned immediately. If the HRA determines that the owner is not entitled to all or a portion of the HAP, the HRA 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 endorsing the monthly check from the HRA, 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 HRA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if the HRA 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 HRA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the HRA's control. In addition, late payment penalties are not required if the HRA 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 HRA 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 HRA 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.

> <u>HRA Policy</u>
>
> The owner must inform the HRA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.
>
> The owner must inform the HRA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the HRA 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, the HRA 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 the HRA 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 ns 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 HRA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The HRA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination the HAP contract. The HRA may also obtain additional relief by judicial order or action.

The HRA 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 HRA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

<u>HRA Policy</u>

Before the HRA invokes a remedy against an owner, the HRA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the HRA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the HRA 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 - 11-6, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The HRA terminates the HAP contract;
- The HRA 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 HRA 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 HRA;
- The Annual Contributions Contract (ACC) between the HRA and HUD expires; and,
- The HRA elects to terminate the HAP contract.

HRA Policy

The HRA 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] (See Chapter 16-VIII.B Methodology);

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; and,

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the HRA terminates the HAP contract, the HRA 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].

HRA Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HRA gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the HRA 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 HRA.

An owner under a HAP contract must notify the HRA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the HRA.

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 HRA finds acceptable. The new owner must provide the HRA with a copy of the executed agreement.

HRA 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.

The HRA must receive a completed Ownership Change form in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the HRA will inform the new and current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the HRA 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

Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the HRA will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the HRA will process the leasing in accordance with the policies in Chapter 9.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

The HRA is committed to ensuring that subsidy funds made available to the HRA are spent in accordance with HUD requirements.

This chapter covers HUD and HRA 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 HRA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the HRA 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 the HRA with a powerful tool for preventing errors and program abuse. The HRA is required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. The HRA is further required to:

- Provide applicants and participants with form HUD-52675, "Debts Owed to PHAs and Terminations; and
- 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.

HRA Policy

The HRA anticipates that the vast majority of families, owners, and HRA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that the HRA's HCV program is administered effectively and according to the highest ethical and legal standards, the HRA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The HRA will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The HRA 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.

The HRA 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, the HRA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The HRA will provide each applicant and participant and require their signature as verification of understanding on the Applicant/Tenant Statement of Responsibilities.

The HRA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key HRA forms and form letters that request information from a family or owner.

HRA staff will be required to review and explain the contents of all HUD and HRA required forms prior to requesting family member signatures.

The HRA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The HRA will provide each HRA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

HRA staff will conduct peer level audits of one another's casework.

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 HRA 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 HRA 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).

HRA Policy

In addition to the SEMAP quality control requirements, the HRA will employ a variety of methods to detect errors and program abuse.

The HRA routinely will use available sources of up-front income verification, including HUD's EIV system, to compare with family-provided information.

The HRA will generate the Deceased Tenants Report at least once a month prior to disbursing the upcoming monthly housing assistance payments to owners.

Upon review, the HRA will take the following corrective actions:

- Immediately contact the head of household or emergency contact person to confirm the death of the listed household member. A letter will be sent, followed by a telephone call.
- Notify the owner in writing of the deceased household member and if applicable recoup any overpaid HAP paid on the tenant's behalf.

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.

The HRA 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 HRA activities and notifies the HRA of errors and potential cases of program abuse.

HRA Policy

The HRA will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the HRA's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

HRA Policy

The HRA will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the HRA Will Investigate

HRA Policy

The HRA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the HRA to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The HRA will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

The HRA will contact the Plymouth Police Department of any cases deemed to warrant further investigation.

Consent to Release of Information [24 CFR 982.516]

The HRA may investigate possible instances of error or abuse using all available HRA and public records. If necessary, the HRA will require HCV families to give consent to the release of additional information.

Analysis and Findings

HRA Policy

The HRA will base its evaluation on a preponderance of the evidence collected during its investigation.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

For each investigation the HRA will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the HRA, 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 HRA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

HRA Policy

In the case of family-caused errors or program abuse, the HRA 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, the HRA 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

HRA Policy

The HRA will inform the relevant party in writing of its findings and remedies within 10 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 the HRA 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 HRA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

HRA Policy

Increases in the family share will be implemented only after the family has received 30 days notice. If the family failed to report in a timely manner, the increase will be retro-active.

Any decreases in family share will become effective the first of the month following the discovery of the error. Retroactive payments will be made as necessary.

Reimbursement

Whether the family or owner is required to reimburse the HRA or the HRA 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 HRA to use incorrect information provided by a third party.

Family Reimbursement to HRA [HCV GB pp. 22-12 to 22-13]

HRA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The HRA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the HRA will terminate the family's assistance in accordance with the policies in Chapter 12.

HRA Reimbursement to Family [HCV GB p. 22-12]

HRA Policy

The HRA 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 HRA [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)].

HRA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by the HRA for rent, security deposit, and additional services

Offering bribes or illegal gratuities to the HRA Board of Commissioners, employees, contractors, or other HRA representatives

Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the HRA on the family's behalf

Use of a false name or the use of falsified, forged, or altered documents

Intentional misreporting of family information or circumstances (e.g. income, family composition)

Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

Admission of program abuse by an adult family member

The HRA 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 HRA may, at its discretion, impose any of the following remedies.

- The HRA may require the family to repay excess subsidy amounts paid by the HRA, as described earlier in this section.
- The HRA 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 HRA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The HRA 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 HRA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the HRA any excess subsidy received. The HRA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the HRA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

HRA Policy

In cases where the owner has received excess subsidy, the HRA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

The HRA may also pursue any other legal remedies available to it in order to recover overpaid subsidy amounts, including but not limited to use of Revenue Recapture under Minnesota Statutes Ch. 270A.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the HRA [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:

HRA Policy

Any of the following will be considered evidence of owner program abuse:

Charging the family rent above or below the amount specified by the HRA

Charging a security deposit other than that specified in the family's lease

Charging the family for services provided to unassisted tenants at no extra charge

Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit

Knowingly accepting incorrect or excess housing assistance payments

Offering bribes or illegal gratuities to the HRA Board of Commissioners, employees, contractors, or other HRA representatives

Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the HRA

Residing in the unit with an assisted family

Remedies and Penalties

When the HRA determines that the owner has committed program abuse, the HRA 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 HRA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. HRA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HRA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a HRA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the Code of Conduct (Exhibit 14-1) and the HRA personnel policy.

HRA-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 HRA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by HRA staff [HCV GB. 22-12].

HRA Reimbursement to Family or Owner

The HRA 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 HRA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

<u>HRA Policy</u>

Any of the following will be considered evidence of program abuse by HRA 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 the HRA

Disclosing confidential or proprietary information to outside parties

Gaining profit as a result of insider knowledge of HRA 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

HRA Policy

When the HRA determines that program abuse by an owner, family, or HRA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the HRA 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 HRA may retain a portion of program fraud losses that the HRA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The HRA 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 HRA 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 HRA 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 HRA related to the collection, these costs must be deducted from the amount retained by the HRA.

EXHIBIT 14-1: CODE OF CONDUCT

Prohibited Employee Activity

Political Activity

In accordance with the provisions of the Federal Match Act, HRA employees have the right to express their views as citizens to pursue their legitimate involvement in the political system, and to vote, but cannot, except as permitted by law, engage in any of the following activities:

- No officers, agents, clerks, or employees of Plymouth HRA may directly or indirectly, during their hours of employment solicit or receive funds, or at any time use their authority or official influence to compel any officer or employee to apply for membership in or become a member of any organization, or to pay or promise to pay an assessment, subscription, or contribution, or to take part in any political activity.

Plymouth HRA employees whose principal employment is in connection with an activity which is financed in whole or in part by federal loans or grants are prohibited from:

- Using official authority of influence for the purpose of interfering with or affecting the result of an election or nomination for office;
- Directly or indirectly coercing or attempting to coerce, command, or advise a person employed by the executive branch of the State or a political subdivision whose principal employment is in connection with an activity of value for political purposes; and
- Standing as a candidate for elective office in a partisan election or accepting appointment to a pubic office where candidacy or appointment would constitute or create the appearance of a conflict of interest without first obtaining a personal Leave of Absence.

Conflict of Interest

Per the U.S. Department of Housing and Urban Development (HUD) in relation to the administration of Housing Assistance Payments (HAP) contracts, no employee of the HRA may have any direct or indirect interest in a HAP contract being administered by the Plymouth HRA. The prohibition of such interest shall apply during employment with the Plymouth HRA and for one year thereafter. The HUD Field Office may permit waivers in certain cases for good cause.

Chapter 15

SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]

INTRODUCTION

The HRA may permit a family to use any of the special housing types discussed in this chapter. However, the HRA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that the HRA must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The HRA 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.

> HRA 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.

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].

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 nine parts as described below:

Part I: Administrative Fee Reserve. This part describes the HRA'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 HRA. This part describes policies for recovery of monies that the HRA has overpaid on behalf of families, or to owners, and describes the circumstances under which the HRA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect the HRA.

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 HRA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the HRA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the HRA'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 Reauthorization Act of 2013 (VAWA). This part describes the HRA's policies pertaining to notification, documentation, and confidentiality.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The HRA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for the HRA's fiscal year. If funds in the administrative fee reserve are not needed to cover HRA administrative expenses,

the HRA may use these funds for other housing purposes permitted by Federal, State and local law.

If the HRA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the HRA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the HRA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

HRA Policy

Expenditures from the administrative fee reserve will be made in accordance with all applicable Federal requirements.

The HRA will not use these funds for other housing purposes permitted by Federal, State and local law other than Section 8, without the prior approval of the HRA'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 HRA to adapt the program to local conditions. This part discusses how the HRA 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).

HRA Policy

Copies of the payment standards and utility allowance schedules are available for review in the HRA's office during normal business hours and on the city's website.

The HRA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7] [PIH Notice 2018-01]

The payment standard sets the maximum subsidy payment a family can receive from the HRA 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 HRA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the HRA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the HRA 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 HRA 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 HRA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the HRA to make further adjustments if it determines that rent burdens for assisted families in the HRA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

HRA Policy

The HRA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards are always within the "basic range" the HRA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: The HRA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The HRA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

Rent Burden of Participating Families: Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the HRA will consider increasing the payment standard. In evaluating rent burdens, the HRA will not include families renting a larger unit than their family unit size.

Quality of Units Selected: The HRA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

Changes in Rent to Owner: The HRA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

Unit Availability: The HRA will review the vacancy rates and the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

Lease-up Time and Success Rate: The HRA 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 generally be effective on January 1st of every year based on the proposed FMRs and will coincide with the effective date of the Utility Allowance Schedule.

New payment standards will be applied beginning January 1st for new admissions, annual moves, re-examinations leasing in place and port-ins.

Exception Payment Standards [982.503(c)] [PIH Notice 2018-01]

The HRA 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 (above 110 percent up to 120 percent) for all units, or for all units of a given size, leased by program families in the exception area. Any HRA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount.

Unit-by-Unit Exceptions [24 CFR 982.503(c)(2)(ii)]

Unit-by-unit exceptions to the HRA'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 HRA's payment standard schedule.

When needed as a reasonable accommodation, the HRA 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 [HCV GB 7-9] [Notice PIH 2013-26] [Notice PIH 2016-05].

HRA Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, the HRA must determine that:

The family has searched for an appropriate unit within the payment standards;

There is a shortage of affordable units that would be appropriate for the family;

The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and

The rent for the unit is reasonable.

"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, the HRA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the HRA 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 HRA 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 HRA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The HRA 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 HRA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the HRA's jurisdiction within the FMR area.

Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]

The HRA 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 HRA-established utility allowance schedule is used in determining family share and HRA subsidy. The HRA 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 HRA 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 HRA 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 HRA 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.

<u>HRA Policy</u>

The HRA has not included an allowance for air-conditioning in its schedule.

Reasonable Accommodation

HCV program regulations require a HRA to approve a utility allowance amount higher than shown on the HRA'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 HRA will approve an allowance for air-conditioning, even if the HRA 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 HRA 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 HRA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS AND HEARINGS

16-III.A. OVERVIEW

When the HRA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

The HRA is required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

Decisions Subject to Informal Review

The HRA 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 HRA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence or stalking. (See Section 3-III.G.)

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the HRA
- General policy issues or class grievances
- A determination of the family unit size under the HRA subsidy standards
- A HRA determination not to grant approval of the tenancy
- A HRA determination that the unit is not in compliance with the HQS
- A HRA determination that the unit is not in accordance with the HQS due to family size or composition

Notice to the Applicant [24 CFR 982.554(a)]

The HRA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the HRA 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

HRA Policy

A request for an informal review must be made in writing and delivered to the HRA either in person, by first class mail, email or fax by the close of the business day, no later than 10 business days from the date of the notice to the family.

Informal Review Procedures [24 CFR 982.554(b)]

HRA Policy

The applicant will be provided the opportunity to present written or oral objections to the decision of the HRA. Applicants will be given the choice of an informal review via telephone or in person.

Informal reviews will be conducted by the Housing Program Manager or HRA Executive Director.

The HRA will schedule the informal review within 10 business days from the date the request is received and send notification of such to the applicant.

Informal Review Decision [24 CFR 982.554(b)]

The HRA must notify the applicant of the HRA's final decision, including a brief statement of the reasons for the final decision.

HRA Policy

In rendering a decision, the HRA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the Notice.

The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The HRA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds

for denial, and the denial is required by HUD, the HRA will uphold the decision to deny assistance.

The HRA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any.

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 (via telephone or in person), the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, Pub.L. 109-162]

The HRA must offer an informal hearing for certain HRA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the HRA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the HRA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and HRA policies.

The HRA 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 HRA 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 HRA utility allowance schedule
- A determination of the family unit size under the HRA'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 HRA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the HRA
- General policy issues or class grievances
- Establishment of the HRA schedule of utility allowances for families in the program
- A HRA determination not to approve an extension or suspension of a voucher term
- A HRA determination not to approve a unit or tenancy
- A HRA determination that a unit selected by the applicant is not in compliance with the HQS
- A HRA determination that the unit is not in accordance with HQS because of family size
- A determination by the HRA to exercise or not to exercise any right or remedy against an owner under a HAP contract

HRA Policy

The HRA 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 HRA makes a decision that is subject to informal hearing procedures, the HRA 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 HRA 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 HRA'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.

HRA Policy

In cases where the HRA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

The proposed action or decision of the HRA.

A brief statement of the reasons for the decision.

The date the proposed action will take place.

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. The deadline will be 10 business days from the date of the notice to the family.

To whom the hearing request should be addressed.

A copy of the HRA's hearing procedures.

Scheduling an Informal Hearing **[24 CFR 982.555(d)]**

When an informal hearing is required, the HRA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

HRA Policy

A request for an informal hearing must be made in writing and delivered to the HRA either in person, by first class mail, or fax by the close of the business day, no later than 10 business days from the date of the notice to terminate assistance.

The HRA must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

The family may request to reschedule a hearing one time 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, the HRA 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 the HRA within 24 hours of scheduled hearing date, excluding weekends and holidays. The HRA 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 HRA will not consider rescheduling if the family has already rescheduled one time.

Pre-Hearing Right to Discovery **[24 CFR 982.555(e)]**

Participants and the HRA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any HRA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the HRA does not make the document available for examination on request of the family, the HRA may not rely on the document at the hearing.

The HRA hearing procedures may provide that the HRA must be given the opportunity to examine at the HRA offices before the hearing, any family documents that are directly relevant to the hearing. The HRA must be allowed to copy any such document at the HRA's expense. If the family does not make the document available for examination on request of the HRA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

HRA Policy

The family will be given a copy of the Informal Hearing memo along with all pertinent

documents to be used at the hearing when they come for the hearing. The family will have time to review all documents before the hearing commences. The Informal Hearing memo shall be made available upon request 48-hours prior to the scheduled hearing.

The family shall bring all pertinent information to the Informal Hearing that they wish to present and copies will be made for the hearing members.

***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 HRA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

HRA Policy

The HRA will use City of Plymouth employees consisting of the Executive Director and two other employees.

The Executive Director will be acting as the hearing officer.

Attendance at the Informal Hearing

HRA Policy

Hearings may be attended by the following applicable persons:

The informal hearing committee members

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the HRA 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 HRA's hearing procedures [24 CFR 982.555(4)(ii)].

HRA 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. The HRA reserves the right to have law enforcement present if there is reasonable cause to believe a potential threat to safety exists.

***Evidence* [24 CFR 982.555(e)(5)]**

The HRA 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.

HRA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the HRA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Hearsay evidence is admissible.

If either the HRA 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 make determinations regarding the admissibility of evidence.

***Hearing Officer's Decision* [24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

HRA Policy

In rendering a decision, the hearing officer will consider the following matters:

HRA Notice to the Family: The hearing officer will determine if the reasons for the HRA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the HRA and the family were given the opportunity to examine any relevant documents in accordance with HRA policy.

HRA Evidence to Support the HRA Decision: The evidence consists of the

facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the HRA'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 HRA policies. If the grounds for termination are not specified in the regulations or in compliance with HRA policies, then the decision of the HRA will be overturned.

The hearing officer will issue a written decision to the family and the HRA no later than 10 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 HRA representatives; and

Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the HRA's decision.

Order: The hearing report will include a statement of whether the HRA's decision is upheld or overturned.

***HRA Notice of Final Decision* [24 CFR 982.555(f)]**

The HRA is not bound by the decision of the hearing officer for matters in which the HRA 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 HRA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the HRA must promptly notify the family of the determination and the reason for the determination.

HRA Policy

The participant will be mailed a letter and a copy of the hearing officer's report. A copy will be maintained in the participant's client file. The decision of the hearing officer is final and no further appeal can be made by the participant.

16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the HRA 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 HRA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the HRA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the HRA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the HRA 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 HRA with a copy of the written request for appeal and the proof of mailing.

HRA Policy

The HRA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the HRA with a copy of the written request for appeal and proof of mailing within 10 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 HRA, of its decision. When the USCIS notifies the HRA of the decision, the HRA must notify the family of its right to request an informal hearing.

HRA Policy

The HRA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

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 HRA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HRA 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 HRA 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 HRA 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.

HRA Policy

The family will be given a copy of all documents 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 HRA,

and to confront and cross-examine all witnesses on whose testimony or information the HRA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the HRA, as may be agreed upon by the two parties.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The HRA may, but is not required to provide a transcript of the hearing.

HRA Policy

The HRA will not provide a transcript of an audio taped hearing.

Hearing Decision

The HRA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 10 business 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 HRA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the HRA 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 HRA must retain for a minimum of 5 years the following documents that may have been submitted to the HRA by the family, or provided to the HRA as part of the USCIS appeal or the HRA 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 HRA

16-IV.A. OVERVIEW

The HRA is required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the HRA [24 CFR 982.54]. This part describes the HRA's policies for recovery of monies owed to the HRA by families or owners.

HRA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the HRA holds the owner or participant liable to return any overpayments to the HRA.

The HRA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to the HRA, the HRA will utilize other available collection alternatives including, but not limited to, the following:

Revenue Recapture

16-IV.B. REPAYMENT POLICY

Owner Debts to the HRA

HRA Policy

Any amount due to the HRA by an owner must be repaid by the owner within 30 days of the HRA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the HRA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the HRA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the HRA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the HRA will ban the owner from future participation in the program and pursue other modes of collection.

Family Debts to the HRA

HRA Policy

Any amount owed to the HRA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the HRA 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, the HRA 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 r*epayment agreement* refers to a formal written document signed by a tenant or owner and provided to the HRA 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

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. A family may already be paying 40 percent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2017-12 acknowledges that the HRA has the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

HRA Policy

The HRA 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 36 months.

Amounts between $1,000 and $2,999 must be repaid within 24 months.

Amounts under $1,000 must be repaid within 12 months. The amount owed will either be added to the family's next 12 month annual reexamination or the family must enter into a repayment agreement.

Subsidy overpayments in amounts over $5000 will be reported to OIG and the family will be terminated from the program.

If a family can provide evidence satisfactory to the HRA that the threshold applicable to the family's debt would impose an undue hardship, the HRA may, in its sole discretion, determine that the lower monthly payment amount is reasonable. In making its determination, the HRA will consider all relevant information, including the following:

The amount owed by the family to the HRA;

The reason for the debt;

The family's current and potential income and expenses;

The family's current family share, as calculated under 24 CFR 982.515; and/or

The family's history of meeting its financial responsibilities.

Execution of the Agreement

HRA Policy

Any repayment agreement between the HRA and a family must be signed and dated by the HRA and by the head of household and spouse/cohead (if applicable).

Due Dates

HRA 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.

Late or Missed Payments

HRA Policy

If a participant fails to make payments for two consecutive months, the HRA will send the family a delinquency notice giving the family 10 business days to make the late payment and bring their account to current. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the HRA will terminate assistance upon written notification to the family and submit any remainder of debt owed to the State of Minnesota Revenue Recapture.

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 HRA 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 HRA 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.

PART V: MANAGEMENT ASSESSMENT (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure HRA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each HRA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the HRA 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]

The HRA 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 HRA board resolution and signed by the HRA executive director. If the HRA 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 the HRA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

The HRA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the HRA’s SEMAP certification, HUD will rate the HRA’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 HRA 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 HRA's certification on the indicator due to the HRA's failure to adequately report family data, HUD will assign a zero rating for the indicator.

16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether the HRA has written policies in its administrative plan for selecting applicants from the waiting list and whether the HRA 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 HRA's written policies, according to the HRA's quality control sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • This indicator shows whether the HRA 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 HRA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the HRA's quality control sample.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • This indicator measures whether the HRA 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 HRA's quality control sample.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • This indicator shows whether the HRA maintains an up-to-date utility allowance schedule. • Points are based on whether the HRA has reviewed the utility allowance schedule and adjusted it when required, according to the HRA's certification.
Indicator 5: HQS quality control inspections **Maximum Score: 5** • This indicator shows whether an HRA supervisor reinspects a sample of units under contract during the HRA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections. • Points are based on whether the required quality control reinspections were completed, according to the HRA'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 HRA-approved extension. • Points are based on whether the HRA corrects all HQS deficiencies in accordance with required time frames, according to the HRA's certification.

Indicator 7: Expanding housing opportunities **Maximum Points: 5** • This is applicable to the HRA as it has a jurisdiction in metropolitan FMR areas • This indicator shows whether the HRA 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 HRA'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 HRA has adopted and implemented written policies in accordance with SEMAP requirements, according to the HRA's certification.
Indicator 8: FMR limit and payment standards **Maximum Points: 5 points** • This indicator shows whether the HRA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the HRA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR. • Points are based on whether the HRA has appropriately adopted a payment standard schedule(s), according to the HRA's certification.
Indicator 9: Annual reexaminations **Maximum Points: 10** • This indicator shows whether the HRA 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 HRA correctly calculates the family's share of the rent. • 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: Biennial HQS inspections **Maximum Points: 10** • This indicator shows whether the HRA inspects each unit under contract at least biennially. • 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 HRA enters HAP contracts for the number of units or funding reserved under ACC for at least one year. • Points are based on the percent of units leased during the last completed HRA fiscal year, or the percent of allocated budget authority that has been expended by the HRA, according to data from the HRA's last year-end operating statement that is recorded in HUD's accounting system.
Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances **Maximum Points: 10** • Only applies to PHAs with mandatory FSS programs. This is not applicable to the HRA as it operates a voluntary FSS program.
Success Rate of Voucher Holders **Maximum Points: 5** • Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts. This is not applicable to the HRA.
Deconcentration Bonus Indicator **Maximum Points: 5** • Submission of data for this indicator is mandatory for the HRA as it is 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 the HRA that has a jurisdiction in metropolitan FMR areas and that chooses 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 HRA 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 HRA 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 HRA must keep:

- A copy of the executed lease;

- The HAP contract; and
- The application from the family.

In addition, the HRA 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 HRA budget and financial statements for the program;
- Records to document the basis for HRA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

16-VI.C. RECORDS MANAGEMENT

The HRA must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

HRA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized HRA staff for both physical and electronic information.

HRA 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 HRA may release the information collected.

Upfront Income Verification (UIV) Records

The HRA accesses UIV data through HUD's Enterprise Income Verification (EIV) System and is required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

HRA Policy

The HRA has adopted and implemented EIV security procedures required by HUD. Staff that has access to EIV system and EIV information will attend mandatory EIV security awareness training.

Criminal Records

The HRA may only disclose the criminal conviction records which the HRA receives from a law enforcement agency to officers or employees of the HRA, or to authorized representatives of the HRA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The HRA must establish and implement a system of records management that ensures that any criminal record received by the HRA 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 HRA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The HRA must establish and implement a system of records management that ensures that any sex offender registration information received by the HRA 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 HRA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by the HRA other than under 24 CFR 5.905.

Medical/Disability Records

The HRA is not permitted to inquire about the nature or extent of a person's disability. The HRA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the HRA receives a verification document that provides such information, the HRA should not place this information in the tenant file. The HRA should destroy the document.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVELS

16-VII.A. OVERVIEW

The HRA has certain responsibilities relative to children with elevated 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 HRA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)] [PIH Notice 2017-13]

The HRA must report the name and address of a child identified as having an elevated blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

HRA Policy

The HRA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the HRA 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 elevated blood lead level.

If the HRA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the HRA 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 HRA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the HRA 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.

HRA Policy

The public health department has agreed to exchange with the HRA required and pertinent data regarding elevated blood lead levels in children under age six and the HRA has added language to its Application for Admission and Recertification form pertaining to elevated blood lead levels for children under the age of six.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. OVERVIEW

The HCV regulations allows the HRA to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454]. Insufficient funding may also impact the HRA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the HRA will use to determine whether or not the HRA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

HRA Policy

The HRA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the HRA's annual budget authority to the annual total HAP needs on a

monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the HRA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the HRA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HRA will be considered to have insufficient funding.

If the ACC is cut or not sufficient to cover HAP expenses for current voucher holders, the HRA will look at cost saving measures such as reducing payment standards. Should the HRA have to terminate HAP Contracts, the HRA will terminate HAP Contracts according to HRA Policy as outlined under section 12-I.-E. - Mandatory Policies and Other Authorized Terminations – Insufficient Funding.

PART IX: VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION ACT OF 2013 (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY [PIH Notice 2017-08]

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 HRA 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."

16-IX.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

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:

- -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
- -Any individual, tenant, or lawful occupant living in the household of that individual.

Bifurcate - 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.

Covered housing provider - refers to the individual or entity under a covered housing program, and as defined by each program in its regulations, that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

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; and 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:

- Fear for the person's individual safety or the safety of others; or
- To suffer substantial emotional distress.

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The HRA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

HRA Policy

The HRA 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 summary of the rights and protections provided by VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (see sample notices in Exhibits 16-1, 16-2 and 16-3)

The definitions of *domestic violence*, *dating violence*, *sexual assault*, and *stalking* provided in VAWA (included in Exhibits 16-1 and 16-2)

An explanation of the documentation that the PHA may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A statement of the HRA's obligation to keep confidential any information that it receives from a victim unless (a) the PHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibits 16-1 and 16-2)

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)]

HRA's 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.

HRA Policy

The HRA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The HRA will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The HRA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and Exhibit 16-3 (Emergency Transfer Plan); and, a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

Notification to Owners and Managers [24 CFR 5.2005 (a)(2)]

HRAs are required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

HRA Policy

The HRA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking.

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

An HRA 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 HRA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the HRA'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, Sexual Assault, 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

(2) A federal, state, tribal, territorial, or local police report or court 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; or a medical professional. Acceptable documentation also includes a record of an administrative agency, and documentation from a mental health 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 HRA 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].

HRA 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.

The HRA may, in its discretion, extend the deadline for 10 business days. Any extension granted by the PHA will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the HRA 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 HRA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The HRA must honor any court orders issued to protect the victim or to address the distribution of property.

HRA Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the HRA 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(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The HRA 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).

HRA Policy

If the HRA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault or stalking, the HRA 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 HRA 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 HRA may deny relief for protection under VAWA.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the HRA 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 HRA (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.

HRA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the HRA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

EXHIBIT 16-1: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

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 Plymouth HRA is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under the housing choice voucher program**,** you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under the housing choice voucher program**,** you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

The HRA 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 the HRA chooses to remove the abuser or perpetrator, the HRA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the HRA 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, the HRA must follow Federal, State, and local eviction procedures. In order to divide a lease, the HRA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

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[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.

Moving to Another Unit

Upon your request, the HRA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the HRA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

> **(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
>
> **(2) You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
>
> **(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.
>
> **OR**
>
> **You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The HRA 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.

Plymouth HRA's emergency transfer plan provides further information on emergency transfers, and the HRA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The HRA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the HRA must be in writing, and the HRA 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. Plymouth HRA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the HRA as documentation. It is your choice which of the following to submit if the HRA 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 Plymouth HRA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking.

Examples of such records include police reports, protective orders, and restraining orders, among others.

- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the HRA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the HRA does not have to provide you with the protections contained in this notice.

If the HRA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the HRA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the HRA does not have to provide you with the protections contained in this notice.

Confidentiality

The HRA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The HRA must not allow any individual administering assistance or other services on behalf of the HRA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The HRA must not enter your information into any shared database or disclose your information to any other entity or individual. The HRA, however, may disclose the information provided if:

- You give written permission to the HRA to release the information on a time limited basis.
- The HRA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the HRA or your landlord to release the information.

VAWA does not limit the HRA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the HRA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the HRA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1) Would occur within an immediate time frame, and
2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If the HRA can demonstrate the above, the HRA should only terminate your assistance or evict you if there are no

other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with the Minneapolis HUD field office located at 920 Second Avenue South, Suite 1300 – Minneapolis, MN 55402-4012 – 612-370-3000.

For Additional Information

You may view a copy of HUD's final VAWA rule at https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Additionally, the HRA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact Plymouth HRA, 3400 Plymouth Boulevard, Plymouth, MN 55447 – 763- 509-5410).

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).

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.

Local organization offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking, you may contact: Home Free/Missions Inc. – Hotline 763-559-4945 – www.missionsinc.org/programs/home-free.

HUD-5380

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

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.

HUD-5382

EXHIBIT 16-2: NOTICE TO HOUSING CHOICE VOUCHER OWNERS AND MANAGERS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, and stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA

Protections for Victims

You cannot refuse to rent to an applicant solely because he or she is a victim of domestic violence, dating violence, sexual assault, or stalking.

You cannot evict a tenant who is the victim of domestic violence, dating violence, sexual assault, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions

You can evict a victim of domestic violence, dating violence, sexual assault, or stalking if you can demonstrate that there is an *actual* or *imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking. You cannot hold a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard that tenants who are not victims.

Removing the Abuser from the Household

The HRA may allow the victim and other household members to stay in the assisted unit, but require the abuser to vacate the assisted unit. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

If a tenant asserts VAWA's protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You are not required to demand official documentation and may rely upon the victim's statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend the deadline. A tenant can certify by providing any one of the following:

- A completed, signed HUD-approved certification form. The most recent form is HUD-5382. This form is available at the HRA or online at http://www.hud.gov/offices/adm/hudclips/forms/hud5.cfm.
- Statement from a victim service provider, attorney, or medical professional who has helped with domestic violence, dating, sexual assault, or stalking

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

The tenant provides written permission releasing the information.

Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation 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. 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.

For Additional Information

An overview of VAWA's housing provisions is available at https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Definitions

For purposes of determining whether a tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines Domestic violence to include 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.

VAWA defines Dating violence as 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; and the frequency of interaction between the persons involved in the relationship.

VAWA defines *sexual assault* as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines *Stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's individual safety or the safety of others; or
- To suffer substantial emotional distress.

EXHIBIT 16-3: Plymouth HRA - Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Emergency Transfers

The HRA 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), the HRA 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. The ability of the HRA 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 HP has another dwelling unit that is available 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 HRA Housing Choice Voucher program is in compliance with VAWA.

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 and submit a written request using Form HUD-5383 as part of this Exhibit to Plymouth HRA – 3400 Plymouth Boulevard – Plymouth, MN 55447. The HRA 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 the housing choice voucher or project-based 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

The HRA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer; unless, the tenant gives the HRA 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(s) that committed

an act(s) 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 HRA'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

The HRA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The HRA 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 a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a 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 been transferred. The HRA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the HRA has no safe and available units for which a tenant who needs an emergency is eligible, the HRA 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, the HRA 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 a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

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.

Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking:

Home Free/Missions Inc.
Hotline 763-559-4945
www.missionsinc.org/programs/home-free

HUD-5383

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you.

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) _____

(HUD-5383)

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and HRA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, 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 HRA 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 HRA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the HRA 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 25 percent 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]

The project-based voucher (PBV) program allows the HRA, which already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD, to take up to 20 percent of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. The HRA may only operate a PBV program if doing so is consistent with the HRA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

HRA Policy

The HRA will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance.

PBV assistance may be attached to 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 HRA is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, the HRA 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 HRA has vouchers available for project-basing [FR Notice 1/18/17].

Additional Project-Based Units [FR Notice 1/18/17]

The HRA may project-base an additional 10 percent of its units above the 20 percent program limit, 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).
- Are specifically made available to house families that are comprised of or include a veteran.
- *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

HRA Policy

The HRA will not set aside units above the 20 percent program limit.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under the Rental Assistance Demonstration (RAD) program and HUD-Veterans Affairs Supportive Housing (VASH) PBV set-aside vouchers do not count toward the 20 percent 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. In order to be excepted, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the HRA either issued the Request for Proposal (RFP) or selected the project, the unit either:
  - Received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for Elderly (Section 202), Housing for Persons with Disabilities (section 811), Rent Supplement (Rent Supp), or Rental Assistance Program (RAP); or
  - The unit was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that have previously received either PBV or HCV assistance are not covered under the exception.

HRA Policy

The HRA will not project-base any of the above unit types.

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 HRA 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.

HRA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HRA 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. The HRA may not use voucher program funds to cover relocation costs, except that the HRA may use its 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 HRA to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The HRA 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 HRA must comply with the HRA 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

The HRA must describe the procedures for owner submission of PBV proposals and for HRA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the HRA 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, FR Notice 11/24/08], and meets the site selection standards [24 CFR 983.57]. The HRA 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]

The HRA must select PBV proposals in accordance with the selection procedures in the HRA administrative plan. The HRA must select PBV proposals by either of the following two methods.

- <u>HRA request for PBV Proposals</u>. The HRA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the HRA request. The HRA 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 HRA may select proposals 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 HRA need not conduct another competition.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c) Notice PIH 2017-21]

HRA 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 HRA. 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 HRA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

HRA Policy

The HRA may solicit proposals by using a request for proposals to select proposals based on a competitive basis in response to the HRA request. The HRA will advertise its request for proposals (RFP) for rehabilitated, newly constructed housing or existing housing units in the official city of Plymouth newspaper the HRA will publish its advertisement in the newspaper for one day per week for three consecutive weeks. The advertisement will specify the number of units the HRA estimates that it will be able to assist under the funding the HRA is making available. Proposals will be due in the HRA office by close of business 15 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the HRA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The HRA may accept proposals for PBV Assistance on an ongoing basis from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were awarded Low-Income Housing Tax Credits.

The HRA may 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 based on a first-come first-served basis.

The HRA will review all proposals (no matter which method used) for the following threshold criteria:

- Site:

  Sites must be compatible with the surrounding neighborhood. For example, if a proposal is for single family or duplex units, the location should be in a single

family/duplex residential neighborhood.

Sites must be accessible to services and amenities appropriate to the type of housing proposed. Examples include locating a property of predominately larger units close to parks, recreational facilities, shopping, employment and transportation or locating a property of predominately 1 bedroom units for seniors close to medical facilities, transportation and shopping.

Sites must meet the requirements of HUD environmental standards.

- Design:

  The proposal must be compliant with Housing Quality Standards (HQS) as well as local codes, ordinances, and zoning requirements. Documentation of compliance may include providing working drawings and specifications for new construction or providing certificates of occupancy or building code inspection reports for existing housing.

  Amenities incorporated in design should be appropriate to prospective tenants.

- Feasibility:

  The proposal must be marketable and demonstrate a strong likelihood of being financed.

- Ability to Successfully Develop, Market and Manage

  The applicant must be able to demonstrate previous experience with similar housing proposals, education on the Project Based Voucher program, and/or available resources to successfully develop, market and manage the proposal.

The HRA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Projects that serve families with children (specifically units of three or more bedrooms) will receive priority in this category. Points will be awarded as follows: less than 30% of proposed project-based units are 3+ bedrooms = 0 points, 30% - 39% of proposed units are 3+ bedrooms = 5 points, 40%-49% of proposed project-based units are 3+ bedrooms = 7 points, and 50% or more of the proposed project-based units are 3+ bedrooms = 10 points.
- Proximity of the proposed development to public facilities, sources of employment, and services, including public transportation, health, education and recreation facilities (0-10 points).
- Prior extensive experience of the applicant in developing and managing similar residential housing (0-10 points).
- Demonstrated ability and capacity of the applicant to proceed expeditiously with the proposal (0-10 points).
- Length of commitment to long-term affordability of the proposed housing for households at or below 50% of area median income. Points will be awarded for

length of commitment as follows: 1-5 years = 2 points, 6-10 years = 5 points, 11-15 years = 7 points, 16+ years = 10 points.

- Extent to which the proposed project has been developed as a result of a cooperative agreement or arrangement among public, semi-public or non-profit agencies and organizations (0-10 points).
- Extent to which the proposed project promotes linkages among housing, jobs and transportation and/or promotes higher-density development along selected transportation corridors (0-10 points).
- Extent to which the project can serve as a model for other communities (0-10 points).
- Extent to which the project contributes to the geographic distribution of affordable housing throughout Plymouth (0-10 points).

HRA-owned Units [24 CFR 983.51(e) and 983.59, FR Notice 1/18/17]

An HRA-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 HRA-owned units were appropriately selected based on the selection procedures specified in the HRA administrative plan. If the HRA selects a proposal for housing that is owned or controlled by the HRA, the HRA must identify the entity that will review the HRA proposal selection process and perform specific functions with respect to rent determinations and inspections.
In the case of HRA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the HRA 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 HRA jurisdiction (unless the HRA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

<u>HRA Policy</u>

The HRA will not provide PBV assistance at HRA-owned properties.

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

HRA Notice of Owner Selection [24 CFR 983.51(d)]

The HRA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection.

HRA Policy

Within 10 business days of the HRA making the selection, the HRA will notify the selected owner in writing of the owner's selection for the PBV program. The HRA 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.

17-II.C. HOUSING TYPE [24 CFR 983.52]

The HRA 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 HRA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

The HRA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The HRA 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 HRA 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 HRA may not attach or pay PBV assistance for a unit occupied by an owner and the HRA 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.

Subsidized Housing [24 CFR 983.54]

A HRA 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 HRA 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 HRA 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 06/25/14]

The HRA 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 HRA must submit the necessary documentation to HUD for a subsidy layering review. Except in cases of HAP contracts for existing structures, or if such reviews have been conducted by the applicable state and local agencies (defined by HUD as qualified housing credit agencies, or HCAs), the HRA may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or an independent entity approved by HUD, has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. In order to satisfy applicable requirements; however, 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.

17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

25 Percent per Project Cap [24 CFR 983.56(a), FR Notice 11/24/08]

In general, the HRA 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 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project..

Exceptions to 25 Percent per Project Cap [24 CFR 983.56(b), FR Notice01/18/17]
Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit 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
- 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
  –For these projects, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA may continue to use the former exemptions and may renew their HAP contracts under the old requirements, unless the HRA 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

HRAs must include in the HRA 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. The project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. An HRA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

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 supportive services as defined in the HRA administrative plan, 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.

<u>HRA Policy</u>

The HRA does not have any excepted units.

Projects not Subject to a Project Cap [FR Notice 1/18/17]

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, 100 percent of the units in these projects may receive PBV assistance. To qualify for the

exception, the unit must:

- Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the HRA either issued the RFP under which the project was selected or the HRA selected the project without competition, the unit met at least one of the two following conditions:

  -The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 303), Housing for Persons with disabilities (Section 811), the Rental Supplement program,

  -The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of *replacement unit* described in FR Notice 1/18/17.

HRA Policy

The HRA 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 HRA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A HRA may establish a per-building 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 HRA may also determine not to provide PBV assistance for excepted units, or the HRA may establish a per-building cap of less than 25 percent.

HRA Policy:

The HRA 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 HRA 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 HRA 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 HRA Plan under 24 CFR 903 and the HRA

administrative plan.

In addition, prior to selecting a proposal, the HRA 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).

HRA Policy

It is the HRA goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal the HRA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

The HRA 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 HRA 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 HRA 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 HRA 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 HRA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the HRA, 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 HRA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The HRA 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 HRA 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 HRA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the HRA 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 HRA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b); FR Notice 01/18/17; Notice PIH 2017-21]

The HRA must inspect each contract unit before execution of the HAP contract. The HRA may not enter into a HAP contract covering a unit until the unit fully complies with HQS, unless the HRA 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.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, the HRA must inspect the unit. The HRA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the HRA recently performed an HQS inspection on the unit within the previous 60 days.

Biennial Inspections [24 CFR 983.103(d)]

At least biennially during the term of the HAP contract, the HRA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this biennial inspection requirement.

If more than 20 percent of the biennial sample of inspected contract units in a building fails the initial inspection, the HRA must reinspect 100 percent of the contract units in the building.

HRA Policy

At least biennially the HRA will conduct inspections on all contract units.

Other Inspections [24 CFR 983.103(e)]

The HRA 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 HRA must take into account complaints and any other information coming to its attention in scheduling inspections.

The HRA 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 HRA supervisory quality control HQS inspections, the HRA should include a representative sample of both tenant-based and project-based units.

Inspecting HRA-owned Units [24 CFR 983.103(f)]

In the case of HRA-owned units, the inspections must be performed by an independent agency designated by the HRA and approved by HUD. The independent entity must furnish a copy of each inspection report to the HRA and to the HUD field office where the project is located. The HRA 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 HRA-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 HRA 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(a)]. The HRA may not enter into an Agreement if construction or rehabilitation has started 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 HRA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the HRA will enter into a HAP

contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement [24 CFR 983.152(c)]

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 HRA, 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 HRA notice of proposal selection to the selected owner. Generally, the HRA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the HRA may not enter into the Agreement until the environmental review is completed and the HRA has received environmental approval. However, the HRA does not need to conduct a subsidy layering review in the case of a HAP contract for an existing structure 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.

> HRA Policy
>
> The HRA will enter into the Agreement with the owner within 20 business days of receiving both environmental approval and notice that subsidy layering requirements have been met.

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 HRA 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 HRA in the form and manner required by the HRA:

- 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 HRA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

> HRA Policy
>
> The HRA will request certificates of occupancy as evidence of completion of construction and/or rehabilitation.

HRA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the HRA 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 HRA 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 HRA must not enter into the HAP contract.

If the HRA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the HRA 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 HRA 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. 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, FR Notice 11/24/08]

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 25 percent per project cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 CFR 983.204] [Notice PIH 2017-21]

The HRA may not enter into a HAP contract until each contract unit has been inspected and the HRA has determined that the unit complies with the Housing Quality Standards (HQS), unless the HRA 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 HRA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the HRA 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.

HRA Policy

For existing housing, the HAP contract will be executed within 10 business days of the HRA determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of the HRA 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 [FR Notice 11/24/08] [FR Notice 10/24/16] [Notice PIH 2017-21]

The HRA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years.

HRA Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis. In most instances it will be for a period of 20 years.

At any time before expiration of the HAP contract, the HRA may extend the term of the contract for an additional term of up to 20 years if the HRA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. An HRA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the HRA 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 HRA-owned units, any extension of the term of the HAP contract must be agreed upon by the HRA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

HRA Policy

When determining whether or not to extend an expiring PBV contract, the HRA 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 HRA [24 CFR 983.205(c)] [FR Notice 01/18/17]

The HAP contract must provide that the term of the HRA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the HRA 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 HRAs 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 HRA 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), FR Notice 11/24/08]

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 HRA. In this case, families living in the contract units must be offered tenant-based assistance.

At its discretion the HRA may specify in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17]

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 HRA 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 HRA must provide the family with a voucher and the family must also be given the option by the HRA 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 HRA HCV tenant-based program, and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

Remedies for HQS Violations [24 CFR 983.207(b)]

The HRA 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 HRA determines that a contract does not comply with HQS, the HRA 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.

HRA Policy

The HRA 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 HRA'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 building for a previously covered contract unit. Before any such substitution can take place, the HRA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)] [FR Notice 01/18/17]

The HRA 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 HRA must submit to the local field office information outlined in FR Notice 1/18/17. The HRA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

HRA Policy

The HRA will consider adding contract units to the HAP contract when the HRA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and

Voucher holders are having difficulty finding units that meet program requirements.

17-V.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 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first 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 983.210]

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 HRA, 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 the family;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit, 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 the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all services, maintenance, equipment, and utilities specified in the HAP contract with the HRA 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 HRA 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.

HRA Policy

The HRA will identify the need for any special features beyond the design threshold criteria noted above on a case-by-case basis depending on the intended occupancy of the PBV project. The HRA 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 HRA, the HAP contract may provide for vacancy payments to the owner for a HRA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the HRA 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).

HRA Policy

The HRA will not provide for vacancy 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 HRA may select families for the PBV program from those who are participants in the HRA'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 HRA, 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 HRA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity.

HRA Policy

The HRA 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 HRA 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 HRA's waiting list. Once the family's continued eligibility is determined (the HRA 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 HRA 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 HRA 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 HRA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the HRA. If the HRA chooses to offer a separate waiting list for PBV assistance, the HRA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a HRA decides to establish a separate PBV waiting list, the HRA may use a single waiting list for the HRA'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.

HRA Policy

The HRA will use one waiting list for both tenant-based and 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 HRA's waiting list. The HRA may establish selection criteria or preferences for occupancy of particular PBV

units.

HRA Policy

Applicants who will occupy units with PBV assistance must be selected from the HRA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The HRA may place families referred by the PBV owner on its PBV waiting list if the HRA has exhausted all names on the waiting list.

General occupancy / non-supportive housing units will be marketed to applicants on the HRA's waiting list. If the HRA is unable to provide enough eligible applicants to fill the PBV units, the HRA may allow the property owner to refer applicants to the PHA.

The HRA will survey its waiting list for interest in PBV units serving homeless, disabled or other specialized populations. Interested applicants will be referred to the property owner for waiting list placement awaiting an open unit.

For certain Project-Based contracts, units designated for homeless, disabled or other specialized populations will be filled through applicant referrals from the Coordinated Entry System and/or their providers in the applicable county, via the owner or management agent.

Coordinated entry is a process developed to ensure all people experiencing a housing crisis have fair and equal access to the community's housing and homeless assistance resources and are quickly identified, assessed for and connected to flexible housing and service options. The Coordinated entry process helps communities prioritize assistance based on vulnerability and severity of service needs to ensure the people who need assistance the most can receive it in a timely manner.

The definition of coordinated entry will be added to the glossary section of the Administrative Plan:

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the HRA's tenant-based and project-based voucher programs during the HRA 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 HRA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d), FR Notice 11/24/08]

The HRA 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 HRA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The HRA 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 HRA plan. The HRA 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 HRA has projects with "excepted units", the HRA must also give preference to such families when referring families to these units [24 CFR 983.261 (b); FR Notice 01/18/17]

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The HRA 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 HRA'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 HRA 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 HRA must provide a briefing packet that explains how the HRA 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 HRA 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 HRA 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 HRA 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 HRA from the HRA'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 HRA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the HRA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the HRA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The HRA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

> HRA Policy
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> The HRA will make every reasonable effort to refer families to the owner within 10 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 HRA 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.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

HRA Responsibility

The HRA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the HRA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

> HRA Policy
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> The HRA will not conduct screening to determine a PBV applicant family's suitability for tenancy. The HRA will conduct screening for eligibility for the program.

The HRA must provide the owner with an applicant family's current and prior address (as shown in HRA records) and the name and address (if known by the HRA) of the family's current landlord and any prior landlords.

In addition, the HRA may offer the owner other information the HRA 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 HRA must provide applicant families a description of the HRA policy on providing information to owners, and the HRA must give the same types of information to all owners.

HRA Policy

The HRA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The HRA 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 HRA, 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 HRA model lease.

The HRA may review the owner's lease form to determine if the lease complies with state and

local law. If the HRA determines that the lease does not comply with state or local law, the HRA may decline to approve the tenancy.

HRA Policy

The HRA 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 HRA (the names of family members and any HRA-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) and 983.257(b)]

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 HRA terminates the HAP contract
- The HRA 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 HRA a copy of all changes.

The owner must notify the HRA 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 HRA and in accordance with the terms of the lease relating to its amendment. The HRA 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 owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HRA 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.

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant. The HRA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

> HRA Policy
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> The HRA prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The HRA 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 983.259]

If the HRA determines that a family is occupying a wrong size unit, based on the HRA'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 HRA must promptly notify the family and

the owner of this determination, and the HRA must offer the family the opportunity to receive continued housing assistance in another unit.

HRA Policy

The HRA 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 10 business days of the HRA's determination. The family must move to an appropriate sized unit within the building or complex and/or the family not in need of accessible features must move to another unit within the building or complex so that the accessible features can be utilized by the family in need of such features. The HRA may utilize other project based communities within its portfolio of project based communities in the event that an appropriate unit is not available within the building or complex.

Continued housing assistance will be offered to the family that is being asked to change units. If a comparable unit is not available a tenant based voucher may be offered. In the event that the family refuses to move to a comparable unit within the complex, within a reasonable amount of time as determined by the HRA, continued assistance will be denied. The HRA will also terminate housing assistance payments to the owner.

If the HRA offers the family a tenant-based voucher, the HRA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the HRA).

If the HRA 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 HRA, or both, the HRA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the HRA.

HRA Policy

When the HRA 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, the HRA will terminate the housing assistance payments at the expiration of this 30-day period.

Family Right to Move [24 CFR 983.260]

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 HRA. If the family wishes to move with continued tenant-based assistance, the family must contact the HRA 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 HRA 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 HRA 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.

HRA Policy

Families requesting a tenant-based voucher to move at a time when there are insufficient funds to issue vouchers will be given priority when funding becomes available for voucher issuance.

Families that have vacated a Plymouth PBV unit and having met all necessary Family Right to Move requirements will be required to complete a Housing Choice Voucher Program Pre-Application no later than 10 days after the PBV unit vacate date for correct placement on the HRA waiting list. Failure to submit this application will remove the family from the HRA's waiting list.

Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, the HRA 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 16-3).

HUD requires that the HRA 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.

HRA Policy

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, the HRA will provide several options for continued assistance.

The HRA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the HRA has PBV units. The HRA 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 tenant-based rental assistance (HCV). Such a decision will be made by the HRA based on the availability of tenant-based vouchers. The HRA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking in its HCV program 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, the HRA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the HRA has PBV units. The HRA will expedite the administrative processes in this case in

an effort to conduct the transfer as quickly as possible.

17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262, FR Notice 11/24/08]

The HRA may not pay housing assistance under a PBV HAP contract for more than 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by the HRA. At least one member must be receiving at least one qualifying supportive service.

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 by the HRA 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.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a "qualifying family" in connection with the 25 percent per project cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the HRA, and the HRA must cease paying housing assistance payments on behalf of the non-qualifying family.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the 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 HRA.

HRA Policy

The HRA will not provide PBV assistance for excepted units.

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 HRA, 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), FR Notice 11/24/08]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These 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 building, 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 a HRA-determined amount (not to exceed 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.

However, the HRA is permitted to use the higher Housing Choice Voucher rent for a tax credit unit if the tax credit rent is less than the amount that would be permitted under Housing Choice Vouchers. In these cases, Housing Choice Voucher rent reasonableness requirements must continue to be met.

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 building 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 HRA must determine reasonable rent in accordable 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 HRA 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 accordable 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 HRA 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.

HRA Policy

The HRA will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.202(c)(2). If upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the HRA 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 HRA 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 HRA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, the HRA 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 stand amount for use in the PBV program.

Likewise, the HRA 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.

Redetermination of Rent [24 CFR 983.302, FR Notice 11/24/08]

The HRA must redetermine the rent to owner upon the owner's request or when there is a five 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 HRA, 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 HRA. The HRA 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).

HRA Policy

An owner's request for a rent increase must be submitted to the HRA 60 days prior to the anniversary date of the HAP contract, and must include the new rent amount the owner is proposing.

The HRA 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. However, the HRA may stipulate in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

Notice of Rent Change

The rent to owner is redetermined by written notice by the HRA to the owner specifying the amount of the redetermined rent. The HRA 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.

HRA Policy

The HRA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

HRA-owned Units [24 CFR 983.301(g)]

For HRA-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 HRA 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 HRA.

When Rent Reasonable Determinations are Required

The HRA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The HRA 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
- 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 HRA 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.

HRA-owned Units

For HRA-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 HRA-owned units to the HRA 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 HRA 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]

At its discretion, a HRA may reduce the initial rent to owner because of other governmental subsidies, including grants and other subsidized financing.

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 HRA 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 HRA agree on a later date.

Except for discretionary vacancy payments, the HRA 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 HRA 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 HRA determines that the vacancy is the owner's fault.

> HRA Policy
>
> If the HRA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the HRA will notify the landlord of the amount of housing assistance payment that the owner must repay.

At the discretion of the HRA, the HAP contract may provide for vacancy payments to the owner. The HRA may only make vacancy payments if:

- The owner gives the HRA 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 HRA 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 HRA and must provide any information or substantiation required by the HRA to determine the amount of any vacancy payment.

HRA Policy

The HRA may make one month vacancy payment if the vacancy was HRA-initiated.

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 HRA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the HRA 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 HRA 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 HRA. The owner must immediately return any excess payment to the tenant.

Tenant and HRA 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 HRA.

Likewise, the HRA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The HRA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The HRA 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 HRA 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 HRA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the HRA chooses to pay the utility supplier directly, the HRA must notify

the family of the amount paid to the utility supplier.

HRA Policy

The HRA will make utility reimbursements to the family.

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.

Chapter 18

SPECIAL PURPOSE HOUSING CHOICE VOUCHERS

INTRODUCTION

Along with the traditional tenant-based and project-based vouchers, Plymouth HRA also has the following special purpose vouchers

This chapter contains three parts:

Part I: Enhanced Vouchers

Part II: Special Purpose Housing Choice Vouchers for Non-Elderly Disabled Families (NED)

Part III: Mainstream Vouchers

18-I. Enhanced Vouchers [Notice PIH 2000-9, Notice PIH 2001-41, Notice PIH 2016-02]

HUD has provided special Section 8 Enhanced Vouchers – also known as Preservation Vouchers – to protect the tenancy of residents of apartment communities when owners of the privately owned development pre-pay or "opt out" of their federally assisted mortgage or Section 8 Contract.

When owners end participation in the Section 8 Project based program or pre-pay their government loan, they convert their housing development to market rate housing and the rents on the affected units are no longer subsidized, the rents increase. When a property owner takes such action – by either a prepaying and/or opting-out – the owner is required by federal law to accept Section 8 Enhanced Vouchers and allow tenants in good standing to remain in the building. The Section 8 Enhanced Voucher replaces the government assistance that kept the rent low; Enhanced vouchers are administered by the local housing authority and are renewed yearly.

Enhanced Vouchers have several special requirements but in all other respects are subject to normal housing choice voucher program rules.

(1) Payment standard where the family chooses to stay in the same project.

(a) Special payment standard. For a family that stays in the project, the payment standard used to calculate the voucher housing assistance payment is the gross rent of the family's unit (provided the proposed gross rent is reasonable), regardless of whether the gross rent exceeds the normally applicable HRA payment standard.

(b) Rent reasonableness documentation and lease requirements. All regular program requirements concerning the reasonableness of the rent pertain.

(c) Effect of family unit size limitation – initial issuance. The HRA issues the eligible family an enhanced voucher based on the HRA's subsidy standards, not the actual size of the unit the family is presently occupying.

(2) Family Move: Normal Payment Standard is applicable. The normally applicable HRA payment standard is always used to determine the family's maximum voucher subsidy when the family moves from the project.

(3) Enhanced Voucher Minimum Rent Requirement for Stayers. Families assisted with enhanced voucher assistance have a special statutory minimum rent requirement. The law requires that a family receiving enhanced voucher assistance must pay for rent no less than the rent the family was paying on the date of the eligibility event for the project in question.

(4) Calculating HAP for Enhanced Voucher Assistance. Regardless of whether the owner's new gross rent after the eligibility event exceeds or is less than the HRA's payment standard, the housing assistance payment for a family that stays in their present unit (or moves from an oversized unit to an appropriate size unit within the project) is the following:

The gross rent for the unit minus the greatest of: 30 percent of the adjusted family income; 10 percent of the family's gross monthly income; the welfare rent in as-paid states; the enhanced voucher minimum rent; or such other minimum rent established by the HRA.

(5) Movers from the Project – All Regular Housing Choice Voucher Rules Apply. If a resident decides to move from the project with the voucher assistance, they will be issued a regular housing choice voucher and all applicable housing choice voucher rules apply.

The HRA currently administers Enhanced Vouchers at one housing community:

- Willow Creek Apartments (North and South)

18-II. Non-Elderly Voucher Program for Persons with Disabilities (NED) [Notice PIH 2013-19]

In December, 1998, Plymouth HRA was awarded 15 Mainstream certificates (now vouchers) to enable persons with disabilities to rent affordable private housing of their choice. Pursuant to Notice PIH 2013-19 the 15 Mainstream vouchers will now be known as NED vouchers. NED vouchers are issued to income eligible families whose head of household, spouse or co-head is 18 years or older and less than 62 years of age and disabled as defined in 42 U.S.C.423.

Policies and Procedures:

(1) Reestablishing NED HCVs. The current 15 mainstream vouchers will be coded as NED vouchers.

(2) Reissuance of Turnover Vouchers. All NED turnover HCVs will be reissued to the next NED family on the HRA's waiting list.

(3) Waiting List Maintenance. The HRA operates one waiting list for all programs. When a NED voucher becomes available, it will be issued to the next eligible NED family from the waiting list. The HRA will not skip over a NED family when a regular voucher becomes available.

(4) Reasonable Accommodations and Related Issues. A family may always request a reasonable accommodation to permit program participation by individuals with

disabilities. Such requests pertain to Exception Payment Standards; Exceptions to Subsidy Standards; and, Voucher term.

18-III. Mainstream Vouchers

On January 3, 2000, Plymouth HRA was awarded 15 Mainstream vouchers. Mainstream vouchers are issued to income eligible families whose head of household, spouse or co-head is 18 years or older and less than 62 years of age and disabled as defined in 42 U.S.C.423.

(1) Reissuance of Mainstream Vouchers. All Mainstream turnover HCVs will be reissued to the next non-elderly, disabled family on the HRA's waiting list.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
BR	Bedroom
CDA	Community Development Agency
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards.
HRA	Housing and Redevelopment Authority
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System
IG	(HUD Office of) Inspector General
IPA	Independent public accountant
IRA	Individual Retirement Account
IRS	Internal Revenue Service

JTPA	Job Training Partnership Act
LBP	Lead-based paint
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
NOFA	Notice of funding availability
OMB	Office of Management and Budget
PASS	Plan for Achieving Self-Support
PHA	Public housing agency
PHRA	Public Housing Reform Act of 1998 (also known as the Quality Housing and Work Responsibility Act)
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
QHWRA	Quality Housing and Work Responsibility Act of 1998 (also known as the Public Housing Reform Act)
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
TANF	Temporary assistance for needy families
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by individuals with physical handicaps.

Adjusted Income. Annual income, less allowable HUD deductions.

Adjusted Annual Income. Same as Adjusted Income.

Administrative fee. Fee paid by HUD to the HRA for administration of the program. See §982.152.

Administrative fee reserve (formerly "operating reserve"). Account established by HRA from excess administrative fee income. The administrative fee reserve must be used for housing purposes. See §982.155. Administrative fee reserves from FY 2004 and 2005 funding are further restricted to activities related to the provision of tenant-based rental assistance authorized under Section 8.

Administrative plan. The plan that describes HRA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the HRA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Affiliated individual. A spouse, parent, brother, sister, or child of that individual, or a person to whom that individuals stands in the place of a parent to a child (for example, the affiliated individual is a child in the case, custody, or control of that individual); or, or any individual, tenant, or lawful occupant living in the household of that individual.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual contributions contract (ACC). *The* written contract between HUD and the HRA under which HUD agrees to provide funding for a program under the 1937 Act, and the HRA agrees to comply with HUD requirements for the program.

Annual Income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area Exception Rent. An amount that exceeds the published FMR. See §982.504(b).

"As-paid" States. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See Net Family Assets.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving Federal financial assistance.

Bifurcate. To divide a lease as a matter of 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.

Budget authority. An amount authorized and appropriated by the Congress for payment to HAs under the program. For each funding increment in a HRA program, budget authority is the maximum amount that may be paid by HUD to the HRA over the ACC term of the funding increment.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing: Space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of data bases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of the HRA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see §982.606 to §982.609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract. (See Housing Assistance Payments Contract.)

Contract authority. The maximum annual payment by HUD to the HRA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type: see §982.619.

Coordinated Entry System. Coordinated entry is a process developed to ensure all people experiencing a housing crisis have fair and equal access to the community's housing and homeless assistance resources and are quickly identified, assessed for and connected to flexible housing and service options. The Coordinated entry process helps communities prioritize assistance based on vulnerability and severity of service needs to ensure the people who need assistance the most can receive it in a timely manner.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head (including co-head), spouse or sole member is a person with a disability.

Disabled person. See Person with Disabilities.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Domestic violence. 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.

Domicile. The legal residence of the household head or spouse as determined in accordance with State and local law.

Drug-related criminal activity. As defined in 42 U.S.C. 1437f(f)(5).

Drug-trafficking. The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Economic Self-Sufficiency Program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see §5.603(c).

Elderly family. A family whose head (including co-head), spouse or sole member is a person who is at least 62 years of age.

Elderly Person. An individual who is at least 62 years of age.

Eligible Family (Family). A family that is income eligible and meets the other requirements of the Act and Part 5 of 24 CFR.

Employer Identification Number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted to evidence citizenship or eligible immigration status. (See §5.508(b).)

Extremely Low Income Family. A family whose annual income does not exceed the higher of 30 percent of the area median income or the federal proverty level. *(CFR 5.603)*

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other real or personal property or interest in the property.

Fair Housing Act means title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, displaced person, disabled person, near-elderly person or any other single person; or
- A group of persons residing together and such groups 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; and
  - The remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by the HRA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see §982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the HRA under the HRA subsidy standards.

Federal agency. A department of the executive branch of the Federal Government.

Foster Child Care Payment. Payment to eligible households by state, local, or private agencies appointed by the State, to administer payments for the care of foster children.

Full-time Student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (*CFR 5.603*)

Funding increment. Each commitment of budget authority by HUD to the HRA under the consolidated annual contributions contract for the HRA program.

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

Group home. A dwelling unit that is licensed by a State as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). A special housing type: see §982.610 to §982.614.

Handicap. Any condition or characteristic that renders a person an individual with handicaps. See 24CFR 8.3.

Handicap Assistance Expense. See "Disability Assistance Expense."

HAP contract. Housing assistance payments contract. (Contract). A written contract between the HRA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Housing assistance payment. The monthly assistance payment by the HRA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). *A* State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

Housing Quality Standards. The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The Department of Housing and Urban Development.

Imputed Asset. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

Imputed Income. HUD passbook rate multiplied by the total cash value of assets. Calculation used when net family assets exceed $5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income For Eligibility. Annual Income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the State's unemployment compensation law, including any Social Security Number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, Employer Identification Number of an employer reporting wages under a State unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Jurisdiction. The area in which the HRA has authority under State and local law to administer the program.

Landlord. Either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the HRA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Local Preference. A preference used by the HRA to select among applicant families.

Low Income Family. A family whose income does not exceed 80% of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80% for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. A special housing type: see §982.620 and §982.621.

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See §982.622 to §982.624.

Medical expenses. Medical expenses, including medical insurance premiums that are anticipated during the period for which annual income is computed, and that are not covered by insurance. (A deduction for elderly or disabled families only.) These allowances are given when calculating adjusted income for medical expenses in excess of 3% of annual income.

Merger Date. October 1, 1999.

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

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of "cooperative."

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

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

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.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, HRAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of Funding Availability (NOFA). For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the HRA and approved by HUD.

HRA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a HRA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant *(participant family).* A family that has been admitted to the HRA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the HRA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Persons With Disabilities. A person who has a disability as defined in 42 U.S.C. 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means and "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes). See "Individual with handicaps"

Portability. Renting a dwelling unit with Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Private space. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the Section 8 program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public Assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by Federal, state, or local governments.

Public Housing Agency (PHA). Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining Member of Tenant Family. Person left in assisted housing who may or may not normally qualify for assistance on own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

Residency Preference. A local preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area ("residency preference area").

Residency Preference Area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. *A*ll HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended

Section 214 covered programs is the collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in §5.500.

Security Deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental: Charges payable by the family for assembling, skirting and anchoring the manufactured home.

Sexual assault. Any nonconsensual sexual act proscribed by Federal, tribal, or state law, including when the victim lacks capacity to consent.

Sexual orientation. Homosexuality, heterosexuality, or bisexuality.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. A special housing type: see §982.615 to §982.618.

Single Person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. A special housing type: see §982.602 to §982.605.

Social Security Number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the HRA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified Welfare Benefit Reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's individual safety or the safety of other; or suffer substantial emotional distress.

State Wage Information Collection Agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by the HRA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family's voucher after the family submits a request for approval of the tenancy. If the HRA decides to allow extensions or suspensions of the voucher term, the HRA administrative plan must describe how the HRA determines whether to grant extensions or suspensions, and how the HRA determines the length of any extension or suspension. This practice is also called "tolling".

Tenancy Addendum. For the Housing Choice Voucher Program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See "Family rent to owner".

Term of Lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by the HRA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Vacancy Loss Payments. (*Applies only to pre-10/2/95 HAP Contracts in the Rental Certificate Program*). When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the contract rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the HRA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

Very Low Income Family. A low-income family whose annual income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50% of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to the program to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(Housing Choice Voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list admission. An admission from the HRA waiting list.

Welfare assistance. Income assistance from Federal or State welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

Welfare-to-work (WTW) family. A family assisted by a PHA with Voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

Appendix A

METROPOLITAN HOUSING OPPORTUNITIES PROGRAM UNITS

BACKGROUND

There are four two-bedroom Metropolitan Housing Opportunities Program (MHOP) units at Stone Creek Village and two three-bedroom units at Shenandoah Woods.

APPLICANT SELECTION PROCEDURE

When a MHOP unit becomes available, the apartment manager will contact the HRA Specialist.

Applicants for MHOP units will be selected from the Plymouth HRA waiting list. Those applicants will be sent information on the property, the unit(s) available and the project management's application process. The applicants, if interested, will be directed to complete the tenancy application and/or contact the project management office. The waiting list will be maintained in accordance with Chapter 4 Part II Managing the Waiting List of the Plymouth HRA Housing Choice Voucher (HCV) Administrative Plan. The HRA Specialist will send the names, addresses, phone numbers and copies of the letters sent of the first five to ten applicants on the waiting list eligible for the bedroom size(s) available, in accordance with Chapter 5 Part II Subsidy Standards described in the HCV Administrative Plan to the apartment manager.

HCV applicants who decline the opportunity to apply for a MHOP unit will remain on the HCV waiting list. Applicants who accept a MHOP unit will also remain on the HCV waiting list unless the family was evicted from the MHOP unit or unless directed by the family to remove from the waiting list.

GRIEVANCE PROCEDURE

1. APPLICABILITY

A. The HRA Grievance Procedure is applicable to all individual Grievances as defined in Section 2 between the Tenant and project management, except as provided in paragraphs i and ii below. The HRA will exclude from its procedure any Grievance concerning an eviction or termination of tenancy that involves:

   i. Any criminal activity, that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents; or

   ii. Any drug-related criminal activity on or off the premises.

B. The Grievance Procedure is not a forum for initiating or negotiating policy changes between a group or groups of Tenants and the HRA Board of Commissioners.

2. DEFINITIONS

A. "Grievance" means any dispute that a Tenant may have with respect to the project management action or failure to act, in accordance with the individual Tenant's lease or HRA regulations, that adversely affects the individual Tenant's rights, duties, welfare or status.

B. "Complainant" means any Tenant whose Grievance is presented to the project management office in accordance with Section 3 of this procedure.

C. "Tenant" means the adult person (or persons):

   i. Who resides in the dwelling unit and who executed the lease with the project management as lessee(s) of the unit, or if no such person now resides in the unit,

   ii. Who resides in the dwelling unit, and who is the remaining head of household of the Tenant family residing in the unit.

   iii. "Tenant" does not include a live-in aide.

3. INFORMAL SETTLEMENT OF GRIEVANCE

A Grievance must be personally presented by a Complainant, either orally or in writing, to the project management office so that the Grievance may be discussed informally and possibly settled without an Informal Review by the HRA. The Grievance must be presented within ten (10) working days of the project management's action or failure to act. A summary of the informal discussion shall be prepared within the next ten (10) working days and a copy shall be given to the Complainant and one copy retained in the project management's Tenant file. The summary shall specify the names of the participants, date of the meeting, the nature of and specific reasons for the proposed disposition of the complainant, and the procedures by which an Informal Review under Section 4 may be obtained if the Complainant is not satisfied.

4. PROCEDURES TO OBTAIN AN INFORMAL REVIEW

The Complainant shall submit a written request for scheduling an Informal Review. A request for an informal review must be made in writing and delivered to the HRA either in person, by first class mail, email or fax by the close of the business day, no later than 10 business days from the date of the notice to the family.

Informal Review Procedures [24 CFR 982.554(b)]

Informal reviews will be conducted by the Housing Program Manager or HRA Executive Director. The HRA will schedule the informal review within 10 business days from the date the request is received and send notification of such to the applicant. The tenant will be provided the opportunity to present written or oral objections to the decision of the project management.

Informal Review Decision [24 CFR 982.554(b)]

The HRA must notify the tenant of the HRA's final decision, including a brief statement of the reasons for the final decision. In rendering a decision, the HRA will evaluate the following matters:

> Whether or not the grounds for termination of assistance were stated factually in the Notice.
>
> The validity of the evidence. The HRA will evaluate whether the facts presented prove the grounds for termination of assistance. If the facts prove that there are grounds for termination, the HRA will uphold the decision to terminate assistance.

The HRA will notify the tenant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the tenant and his or her representative, if any.

> If the project management's decision to terminate assistance is overturned as a result of the informal review, assistance will resume.
>
> If the tenant fails to appear for their informal review, the termination of assistance will stand and the tenant will be so notified.

Index of Amendments

Chapter 3, 3-1C.; Chapter 3, 3-I.D.; Chapter 3, 3-I.J.; Chapter 3, 3-III.C; Chapter 3, 3-III.E.; Chapter 4, 4-II.F.; Chapter4, 4-III.C.; Chapter 5, 5-I.B.; Chapter 5, 5-II.B.; Chapter 12, Exhibit 12-1; Chapter 16, 16-III.B.; Chapter 16, 16-III.C. ***(Amended by HRA Resolution 2012-06, May 24, 2012)***

Chapter 3, Part I-3-I.D.; Chapter 5, Part II-5-II.B.; Chapter 5, Part II-5-II.C.; Chapter 8, Exhibit 8-1; Chapter 13, Part II-13-II.F. ***(Amended by HRA Resolution 2012-07, October 25, 2012)***

Chapter 3, 3-I-D.; Chapter 3, 3-I-E.; Chapter 3, 3III.D.; Chapter 4, 4-III.C.; Chapter 4, 4-III.D.; Chapter 4, 4-III.E.; Chapter 4, 4-III.F.; Chapter 5, 5-I.B.; Chapter 6, 6-I.G.; Chapter 6, 6-II.A.; Chapter 6, 6-III.C.; Chapter 7, 7-II.H.; Chapter 7, 7-III.C.; Chapter 8, 8-III.B.; Chapter 9, 9-I.A.; Chapter 13, 13-I.D.; Chapter 13, 13-II.E.; Chapter 16, 16-VIII.B.; Appendix A. ***(Amended by HRA Resolution 2013-02, March 28, 2013)***

Chapter 4, 4-II.B.; Chapter 5, 5-II.B.; Chapter 6, 6-II.A.; Chapter 16, 16-III.B.; Chapter 16, 16-III.C.; Chapter 17, 17-VI.D.; Chapter 18, 18-II. ***(Amended by HRA Resolution 2013-03, September 26, 2013)***

Chapter 2, 2-II.B.; Chapter 2, 2-II.E.; Chapter 2, 2-II.G.; Chapter 3, 3-I.B.; Chapter 5, 5-II.B.; Chapter 5, 5-II.B.; Chapter 5, 5-II.C.; Chapter 6, 6-I.G.; Chapter 6, 6-II.D.; Chapter 7, 7-III.B.; Chapter 7, 7-III.C.; Chapter 8, 8-II.A.; Chapter 8, 8-II.C.; Chapter 11, 11-II.C.; Chapter 12, Exhibit 12-1; Chapter 16, 16-II-B.; Chapter 16, 16-V.C.; Chapter 17, 17-V.B; Chapter 18, 18-II.; Glossary ***(Amended by HRA Resolution 2014-06, September 25, 2014)***

Chapter 3, 3-I.B.; Chapter 3, 3-I.C.; Chapter 3, 3-I.L.; Chapter 3, 3-I.M.; Chapter 3, 3-III.G.; Chapter 4, 4-II.C.; Chapter 4, 4-III.C.; Chapter 5, 5-I.B.; Chapter 5, 5-I.C.; Chapter 5, 5-II.B.; Chapter 5, 5-II.C.; Chapter 6, 6-I.B.; Chapter 6, 6-I.D.; Chapter 6, 6-III.A.; Chapter 6, 6-III.B.; Chapter 7, Verification; Chapter 7, 7-1.C.; Chapter 7, 7-II.G.; Chapter 7, 7-II.H.; Chapter 10, 10-I-A.; Chapter 10, 10-I.B.; Chapter 11, 11-II.C.; Chapter 11, 11-II.D.; Chapter 12, 12-I.E.; Chapter 12, 12.II.E.; Chapter 12, Exhibit 12-1; Chapter 13, 13-I.C.; Chapter 14, 14-I.A.; Chapter 16, Introduction; Chapter 16, 16-IV.B.; Chapter 16, Part IX, Glossary ***(Amended by HRA Resolution 2015-05, September 24, 2015)***

Chapter 2, 2-I.A.; Chapter 3, 3-II.A.; Chapter 3, 3-II.C.; Chapter 5, 5-I.B.; Chapter 5, 5-II.B.; Chapter 5, 5-II.E.; Chapter 6, 6-I.E.; Chapter 6, 6-I.G.; Chapter 6, 6-I.K.; Chapter 6, 6-I.L.; Chapter 6, 6-III.C.; Chapter 6, 6-III.D.; Chapter 6 - Exhibit 6-1; Chapter 6 - Exhibit 6-4; Chapter 7, 7-II.B.; Chapter 7, 7-III.J.; Chapter 10; Chapter 11, 11-I.C.; Chapter 11, 11-II.C.; Chapter 11, 11-II.D.; Chapter 11, 11-III.B.; Chapter 12, 12-I.E.; Chapter 12, Exhibit 12-1; Chapter 16, 16-II.B.; Chapter 16, 16-III.B.; Chapter 16, 16-IV-B.; Chapter 17, 17-III.D.; Chapter 18, 18-1.; Glossary ***(Amended by HRA Resolution 2016-03, September 22, 2016)***

Chapter 3, 3-II.E.; Chapter 4, 4-II.B.; Chapter 4, 4-II.F.; Chapter 5, 5-II.B.; Chapter 6, 6-I.E.; Chapter 6, 6-I.K.; Chapter 7, 7-II.E.; Chapter 8, 8-I.E.; Chapter 8, 8-II.F.; Chapter 8, 8-II.G.; Chapter 11, 11-II.A.; Chapter 11, 11-II.B.; Chapter 11, 11-II.C.; Chapter 12, 12-I.D.; Chapter 16,

16-IV.B.; Chapter 16, 16-VII.A.; Chapter 16, 16-VII.B.; Chapter 16, 16-VII.C.; Chapter 16, 16-I.B.; Chapter 16, 16-IX.C.; Chapter 17, 17-V.B.; Glossary ***(Amended by HRA Resolution 2017-05, September 28, 2017)***

Chapter 6, 6-I.G.; Chapter 8; Chapter 17 ***(Amended by HRA Resolution 2018-02, April 24, 2018)***

Introduction; Chapter 4, 4-III.C.; Chapter 5, 5.I.B.; Chapter 5, 5-II.C.; Chapter 6, 6-I-A.; Chapter 6, 6-II.D.; Chapter 6, 6-III.C.; Chapter 7, 7-I.D.; Chapter 7, 7-II.H.; Chapter 7, 7-III.D.; Chapter 7, 7-IV.D.; Chapter 8, 8-III.B.; Chapter 11, 11-II.C.; Chapter 15, 16-II.B.; Chapter 16, 16-VIII.B.; Chapter 17, 17-VII.C.; Appendix A ***(Amended by HRA Resolution 2018-08, September 27, 2018)***

Chapter 3, 3-I.C.; Chapter 3, 3-I.L.; Chapter 3, 3-II.C; Chapter 4, 4-II.F.; Chapter 5, 5-II.C.; Chapter 6, 6-II.D.; Chapter 6, 6-II.E.; Chapter 6, 6-II.F.; Chapter 7, 7-II.B.; Chapter 7, 7-II.F.; Chapter 7, 7-IV.B.; Chapter 12, 12-I.E.; Chapter 12, Exhibit 12-1; Chapter 16, 16-IX.D.; Chapter 17, 17-II.F.; Chapter 17, 17-VI.C.; Chapter 17, 17-VI.D.; Chapter 18, 18-II.; Chapter 18, 18-III.; Glossary ***(Amended by HRA Resolution 2019-04, September 26, 2019)***