

NBHA RESOLUTION 2019 – 8/21 # 24

Resolution Approving and Adopting a Revised Administrative Plan (Admin Plan) for the Housing Authority of the City of New Brunswick

WHEREAS, the Housing Authority of the City of New Brunswick (including any successors or assigns, the “Housing Authority”), was duly created as an agency and instrumentality of the municipality of the State (the “Local Unit”) in which such Housing Authority is located, and has been continued as a housing authority pursuant to and in accordance with the provisions of the Local Redevelopment and Housing Law, constituting Chapter 79 of the Laws of 1992 of the State, and the acts amendatory thereof and supplemental thereto (*N.J.S.A. 40A:12A-1 et seq.*) (the “Local Housing Law”);

WHEREAS, HUD has issued various notice and that require the Admin Plan to be revised; and

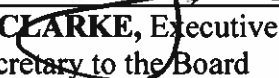
WHEREAS, the Housing Authority has worked with the management consultant to create a summary sheet that details the revisions to the policy and has distributed the entire policy to all Board members for review ad consideration.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Housing Authority of the City of New Brunswick hereby approves and adopts the revised Administrative Plan (Admin Plan) effective immediately.

Passed on this 21st day of August, 2019 (See attached Vote Box)



Chairperson



JOHN CLARKE, Executive Director
And Secretary to the Board

NBHA RESOLUTION 2019 – 8/21 # 24

Resolution Approving and Adopting a Revised Administrative Plan (Admin Plan) for the Housing Authority of the City of New Brunswick

COMMISSIONERS	MOVES	SECONDS	AYES	NAYS	ABSTAIN	ABSENT
VACANT						
JONES	✓		✓			
GIORGIANNI			✓			
WOLDE			✓			
DUNLAP			✓			
MEDINA-HERNANDEZ			✓			
CALDWELL		✓	✓			

NEW BRUNSWICK HOUSING AUTHORITY
ADMINISTRATIVE PLAN
FOR THE
HOUSING CHOICE VOUCHER PROGRAM

Approved by the HA Board of Commissioners:

Submitted to HUD:

Adminplan 07/19

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ADMINISTRATIVE PLAN
FOR THE
HOUSING CHOICE VOUCHER PROGRAM

Product # 301-002

January 1, 2005

Revision Date	Revision Date
September 1, 2005	April 1, 2013
May 1, 2006	May 1, 2014
December 1, 2006	October 1, 2014
July 1, 2007	October 1, 2015
August 1, 2008	March 1, 2016
November 1, 2008	March 1, 2017
October 1, 2009	July 1, 2017
August 1, 2010	July 1, 2018
May 1, 2011	July 1, 2019
April 1, 2012	

Approved by the HA Board of Commissioners:

Submitted to HUD:

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Introduction

ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN

AUTHORITIES FOR POLICIES IN THE MODEL ADMINISTRATIVE PLAN

The authority for PHA policies is derived from many sources. Primary among these sources are federal statutes, federal regulations, and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy as long as it does not conflict with federal requirements or prohibitions.

HUD

HUD provides the primary source of PHA policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and current HUD handbooks is mandatory.

HUD also provides guidance to PHAs through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing PHA policy on HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor.”

Material posted on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations in various aspects of the program.

State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. Industry practice refers to a way of doing things or a policy that has been adopted by a majority of PHAs.

RESOURCES CITED IN THE MODEL ADMINISTRATIVE PLAN

The model administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the model administrative plan may contain the entire name of the document or resource. 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 that are referenced in the model administrative plan or that may be helpful to you.

Abbreviations

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

Following is a list of resources helpful to the PHA or referenced in the model administrative plan, and the online location of each.

Document and Location
Code of Federal Regulations http://www.gpoaccess.gov/cfr/index.html
Earned Income Disregard FAQ www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguidepha.pdf
Executive Order 11063 http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm

<p>Federal Register http://www.access.gpo.gov/su_docs/aces/fr-cont.html</p>
<p>General Income and Rent Determination FAQs www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm</p>
<p>Housing Choice Voucher Program Guidebook (7420.10G), April 2001 www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm</p>
<p>HUD-50058 Instruction Booklet https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF</p>
<p>Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 http://www.hud.gov/offices/fheo/library/huddojstatement.pdf</p>
<p>Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 http://www.hud.gov/offices/fheo/promotingfh/FederalRegistepublishedguidance.pdf</p>
<p>Notice PIH 2018-24, Verification of Social Security Numbers (SSNs) and Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf</p>
<p>Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF</p>
<p>Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf</p>
<p>OMB Circular A-133 http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2010</p>
<p>Project-Based Voucher Program; Final Rule http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf</p>

Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
www.hud.gov/offices/pih/programs/ph/rhiip/faq.cfm

VAWA Final Rule

<http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf>

Verification FAQ

www.hud.gov/offices/pih/programs/ph/rhiip/faq_verif.cfm

Verification Guidance, March 2004 (attachment to Notice PIH 2004-1)

<http://www.hud.gov/offices/pih/publications/notices/04/verifguidance.pdf>

The HUD Web site is <https://www.hud.gov/>.

Guidebooks, handbooks and other HUD resources may be found at the HUDClips Web site:
https://www.hud.gov/program_offices/administration/hudclips.

Administrative Plan -Table of Contents

Introduction

ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

PART I:	THE PHA.....	1-1
	1-I.A. Overview.....	1-1
	1-I.B. Organization and Structure of the PHA.....	1-2
	1-I.C. PHA Mission	1-2
	1-I.D. The PHA's Programs.....	1-3
	1-I.E. The PHA's Commitment to Ethics and Service	1-3
PART II:	THE HOUSING CHOICE VOUCHER (HCV) PROGRAM.....	1-5
	1-II.A. Overview and History of the Program.....	1-5
	1-II.B. HCV Program Basics.....	1-7
	1-II.C. The HCV Partnerships.....	1-7
	The HCV Relationships:.....	1-8
	What Does HUD Do?	1-9
	What Does the PHA Do?.....	1-9
	What Does the Owner Do?	1-10
	What Does the Family Do?.....	1-11
	1-II.D. Applicable Regulations.....	1-12
PART III:	THE HCV ADMINISTRATIVE PLAN.....	1-13
	1-III.A. Overview and Purpose of the Plan.....	1-13
	1-III.B. Contents of the Plan (24CFR 982.54).....	1-13
	Mandatory vs. Discretionary Policy	1-15
	1-III.C. Organization of the Plan	1-15
	1-III.D. Updating and Revising the Plan	1-15

Administrative Plan -Table of Contents

**Chapter 2
FAIR HOUSING AND EQUAL OPPORTUNITY**

PART I:	NONDISCRIMINATION.....	2-3
	2-I.A. Overview.....	2-3
	2-I.B. Nondiscrimination	2-4
	Providing Information to Families and Owners	2-5
	Discrimination Complaints.....	2-5
PART II:	POLICIES RELATED TO PERSONS WITH DISABILITIES	2-7
	2-II.A. Overview.....	2-7
	2-II.B. Definition of Reasonable Accommodation.....	2-8
	Types of Reasonable Accommodations.....	2-8
	2-II.C. Request for an Accommodation	2-9
	2-II.D. Verification of Disability	2-10
	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, Notice PIH 2010-26].....	2-11
	2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments	2-12
	2-II.G. Physical Accessibility	2-13
	2-II.H. Denial or Termination of Assistance	2-14
PART III:	IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP).....	2-15
	2-III.A. Overview.....	2-15
	2-III.B. Oral Interpretation	2-16
	2-III.C. Written Translation.....	2-16
	2-III.D. Implementation Plan.....	2-17
Exhibit 2-1:	Definition of a Person with a Disability Under Federal Civil Rights Laws [24 CFR Parts 8.3, and 100.201].....	2-19

Administrative Plan -Table of Contents

Chapter 3 ELIGIBILITY

PART I:	DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS.....	3-3
3-I.A.	Overview.....	3-3
3-I.B.	Family and Household [24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20].....	3-3
	Family	3-3
	Household	3-3
3-I.C.	Family Breakup and Remaining Member of Tenant Family.....	3-4
	Family Breakup [24 CFR 982.315; Notice PIH 2017-08]	3-4
	Remaining Member of a Tenant Family [24 CFR 5.403].....	3-5
3-I.D.	Head of Household [24 CFR 5.504(b)].....	3-5
3-I.E.	Spouse, Cohead, and Other Adult.....	3-5
3-I.F.	Dependent [24 CFR 5.603].....	3-6
	Joint Custody of Dependents	3-6
3-I.G.	Full-Time Student [24 CFR 5.603, HVC GB, p. 5-29]	3-6
3-I.H.	Elderly and Near-Elderly Persons, and Elderly Family [24 CFR 5.100 and 5.403, FR Notice 02/03/12].....	3-6
	Elderly Persons	3-6
	Near-Elderly Persons	3-6
	Elderly Family	3-6
3-I.I.	Persons with Disabilities and Disabled Family [24 CFR 5.403, FR Notice 02/03/12]	3-7
	Persons with Disabilities.....	3-7
	Disabled Family	3-7
3-I.J.	Guests [24 CFR 5.100]	3-7
3-I.K.	Foster Children and Foster Adults.....	3-8
3-I.L.	Absent Family Members.....	3-8
	Definitions of Temporarily and Permanently Absent.....	3-8
	Absent Students	3-8
	Absences Due to Placement in Foster Care [24 CFR 5.403].....	3-9
	Absent Head, Spouse, or Cohead	3-9
	Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]	3-9
	Return of Permanently Absent Family Members	3-9
3-I.M.	Live-In Aide.....	3-10

Administrative Plan -Table of Contents

PART II:	BASIC ELIGIBILITY CRITERIA	3-11
3-II.A.	Income Eligibility and Targeting.....	3-11
	Income Limits	3-11
	Definitions of the Income Limits [24 CFR 5.603(b)].....	3-11
	Using Income Limits for Eligibility [24 CFR 982.201]	3-11
	Using Income Limits for Targeting [24 CFR 982.201].....	3-12
3-II.B.	Citizenship or Eligible Immigration Status [24 CFR 5, Subpart E]	3-13
	Declaration [24 CFR 5.508]	3-13
	Mixed Families	3-14
	Ineligible Families [24 CFR 5.514(d), (e), and (f)]	3-14
	Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]	3-15
3-II.C.	Social Security Numbers [24 CFR 5.216 and 5.218, Notice PIH 2018-24].....	3-15
3-II.D.	Family Consent to Release of Information [24 CFR 5.230; HCV GB, p. 5-13].....	3-16
3-II.E.	Students Enrolled In Institutions of Higher Education [24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/16].....	3-17
	Definitions	3-17
	Determining Student Eligibility.....	3-21
PART III:	DENIAL OF ASSISTANCE	3-23
3-III.A.	Overview.....	3-23
	Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]	3-23
	Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]	3-23
3-III.B.	Mandatory Denial of Assistance [24 CFR 982.553(a)].....	3-24
3-III.C.	Other Permitted Reasons for Denial of Assistance.....	3-25
	Criminal Activity [24 CFR 982.553].....	3-25
	Previous Behavior in Assisted Housing [24 CFR 982.552(c)]	3-26
3-III.D.	Screening	3-27
	Screening for Eligibility	3-27
	Screening for Suitability as a Tenant [24 CFR 982.307].....	3-28
3-III.E.	Criteria for Deciding to Deny Assistance	3-29
	Evidence [24 CFR 982.553(c)].....	3-29
	Consideration of Circumstances [24 CFR 982.552(c)(2)].....	3-29
	Removal of a Family Member's Name from the Application.....	3-31
	Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]	3-31
3-III.F.	Notice of Eligibility or Denial	3-32

Administrative Plan -Table of Contents

3-III.G. Prohibition Against Denial of Assistance to Victims of Domestic
Violence, Dating Violence, Sexual Assault, and Stalking..... 3-33
 Notification..... 3-33
 Documentation..... 3-34

Exhibit 3-1: Detailed Definitions Related to Disabilities..... 3-35
 Person with Disabilities [24 CFR 5.403]..... 3-35
 Individual with Handicaps [24 CFR 8.3]..... 3-37

Exhibit 3-2: Definition of Institution of Higher Education [20 U.S.C 1001 and 1002] 3-39
 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] 3-39

Administrative Plan -Table of Contents

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

PART I:	THE APPLICATION PROCESS	4-3
4-I.A.	Overview.....	4-3
4-I.B.	Applying for Assistance [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36].....	4-3
4-I.C.	Accessibility of the Application Process.....	4-4
	Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]	4-4
	Limited English Proficiency	4-4
4-I.D.	Placement on the Waiting List.....	4-5
	Ineligible for Placement on the Waiting List.....	4-5
	Eligible for Placement on the Waiting List.....	4-5
PART II:	MANAGING THE WAITING LIST.....	4-7
4-II.A.	Overview.....	4-7
4-II.B.	Organization of the Waiting List [24 CFR 982.204 and 205]	4-7
4-II.C.	Opening and Closing the Waiting List [24 CFR 982.206]	4-8
	Closing the Waiting List.....	4-8
	Reopening the Waiting List.....	4-8
4-II.D.	Family Outreach [HCV GB, pp. 4-2 to 4-4].....	4-9
4-II.E.	Reporting Changes in Family Circumstances.....	4-10
4-II.F.	Updating the Waiting List [24 CFR 982.204]	4-10
	Purging the Waiting List.....	4-10
	Removal from the Waiting List	4-11
PART III:	SELECTION FOR HCV ASSISTANCE	4-13
4-III.A.	Overview.....	4-13
4-III.B.	Selection and HCV Funding Sources	4-13
	Special Admissions [24 CFR 982.203].....	4-13
	Targeted Funding [24 CFR 982.204(e)]	4-13
	Regular HCV Funding	4-13
4-III.C.	Selection Method	4-14
	Local Preferences [24 CFR 982.207; HCV p. 4-16].....	4-14
	Income Targeting Requirement [24 CFR 982.201(b)(2)].....	4-15
	Order of Selection.....	4-15
4-III.D.	Notification of Selection.....	4-16
4-III.E.	The Application Interview.....	4-16
4-III.F.	Completing the Application Process.....	4-18

Administrative Plan -Table of Contents

**Chapter 5
BRIEFINGS AND VOUCHER ISSUANCE**

PART I: BRIEFINGS AND FAMILY OBLIGATIONS 5-1

- 5-I.A. Overview..... 5-1
- 5-I.B. Briefing [24 CFR 982.301]..... 5-2
 - Notification and Attendance 5-2
 - Oral Briefing [24 CFR 982.301(a)] 5-3
 - Briefing Packet [24 CFR 982.301(b)] 5-4
 - Additional Items to be Included in the Briefing Packet..... 5-5
- 5-I.C. Family Obligations 5-6
 - Time Frames for Reporting Changes Required by Family Obligations..... 5-6
 - Family Obligations [24 CFR 982.551] 5-6

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE 5-11

- 5-II.A. Overview..... 5-11
- 5-II.B. Determining Family Unit (Voucher) Size [24 CFR 982.402] 5-11
- 5-II.C. Exceptions to Subsidy Standards..... 5-13
- 5-II.D. Voucher Issuance [24 CFR 982.302]..... 5-14
- 5-II.E. Voucher Term and Extensions..... 5-15
 - Voucher Term [24 CFR 982.303]..... 5-15
 - Extensions of Voucher Term [24 CFR 982.303(b)] 5-15
 - Suspensions of Voucher Term [24 CFR 982.303(c)] 5-17
 - Expiration of Voucher Term..... 5-17

Administrative Plan -Table of Contents

Chapter 6 INCOME AND SUBSIDY DETERMINATIONS [24 CFR Part 5, Subparts E and F; 24 CFR 982]

PART I:	ANNUAL INCOME.....	6-2
6-I.A.	Overview.....	6-2
6-I.B.	Household Composition and Income.....	6-3
	Summary of Income Included and Excluded by Person.....	6-3
	Temporarily Absent Family Members.....	6-4
	Family Members Permanently Confined for Medical Reasons.....	6-5
	Joint Custody of Dependents.....	6-5
	Caretakers for a Child.....	6-6
6-I.C.	Anticipating Annual Income.....	6-7
	Basis of Annual Income Projection.....	6-7
	Projecting Income.....	6-8
6-I.D.	Earned Income.....	6-9
	Types of Earned Income Included in Annual Income.....	6-9
	Types of Earned Income <u>Not</u> Counted in Annual Income.....	6-9
6-I.E.	Earned Income Disallowance for Persons with Disabilities [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16].....	6-13
	Eligibility.....	6-13
	Calculation of the Disallowance.....	6-14
	Original Calculation Method.....	6-14
	Revised Calculation Method.....	6-15
6-I.F.	Business Income [24 CFR 5.609(b)(2)].....	6-16
	Business Expenses.....	6-16
	Business Expansion.....	6-16
	Capital Indebtedness.....	6-16
	Negative Business Income.....	6-17
	Withdrawal of Cash or Assets from a Business.....	6-17
	Co-owned Businesses.....	6-17
6-I.G.	Assets [24 CFR 5.609(b)(3); 24 CFR 5.603(b)].....	6-18
	Overview.....	6-17
	General Policies.....	6-18
	Types of Assets.....	6-22
6-I.H.	Periodic Payments.....	6-22
	Periodic Payments <u>Included</u> in Annual Income.....	6-26
	Lump-Sum Payments for the Delayed Start of a Periodic Payment.....	6-26
	Treatment of Overpayment Deductions from Social Security Benefits.....	6-26
	Periodic Payments <u>Excluded</u> from Annual Income.....	6-27
6-I.I.	Payments In Lieu of Earnings.....	6-28

Administrative Plan -Table of Contents

6-I.J.	Welfare Assistance	6-29
	Overview.....	6-29
	Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]	6-29
6-I.K.	Periodic and Determinable Allowances [24 CFR 5.609(b)(7)]	6-30
	Alimony and Child Support.....	6-30
	Regular Contributions or Gifts	6-30
6-I.L.	Student Financial Assistance [24 CFR 5.609(b)(9); Notice PIH 2015-21].....	6-31
	Student Financial Assistance <u>Included</u> in Annual Income [24 CFR 5.609(b)(9)); FR 4/10/06; Notice PIH 2015-21].....	6-31
	Student Financial Assistance <u>Excluded</u> from Annual Income [24 CFR 5.609(c)(6)]	6-32
6-I.M.	Additional Exclusions From Annual Income	6-33
PART II:	ADJUSTED INCOME.....	6-37
6-II.A.	Introduction.....	6-37
	Overview.....	6-37
	Anticipating Expenses	6-37
6-II.B.	Dependent Deduction	6-38
6-II.C.	Elderly or Disabled Family Deduction	6-38
6-II.D.	Medical Expenses Deduction [24 CFR 5.611(a)(3)(i)]	6-39
	Definition of <i>Medical Expenses</i>	6-39
	Summary of Allowable Medical Expenses from IRS Publication 502	6-39
	Families That Qualify for Both Medical and Disability Assistance Expenses	6-40
6-II.E.	Disability Assistance Expenses Deduction [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]	6-41
	Earned Income Limit on the Disability Assistance Expense Deduction	6-41
	Eligible Disability Expenses.....	6-42
	Necessary and Reasonable Expenses.....	6-43
	Families That Qualify for Both Medical and Disability Assistance Expenses	6-43
6-II.F.	Child Care Expense Deduction.....	6-44
	Clarifying the Meaning of <i>Child</i> for This Deduction	6-44
	Qualifying for the Deduction.....	6-44
	Earned Income Limit on Child Care Expense Deduction.....	6-46
	Eligible Child Care Expenses	6-47

Administrative Plan -Table of Contents

PART III:	CALCULATING FAMILY SHARE AND PHA SUBSIDY	6-49
6-III.A.	Overview of Rent and Subsidy Calculations	6-49
	TTP Formula [24 CFR 5.628]	6-49
	Family Share [24 CFR 982.305(a)(5)].....	6-49
	PHA Subsidy [24 CFR 982.505(b)].....	6-50
	Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]	6-50
6-III.B.	Financial Hardships Affecting Minimum Rent [24 CFR 5.630]	6-51
	Overview.....	6-51
	HUD-Defined Financial Hardship	6-51
	Implementation of Hardship Exemption	6-53
6-III.C.	Applying Payment Standards [24 CFR 982.505; 982.503(b)]	6-56
	Overview.....	6-56
	Changes in Payment Standards.....	6-56
	Reasonable Accommodation	6-57
6-III.D.	Applying Utility Allowances [24 CFR 982.517].....	6-58
	Overview.....	6-58
	Reasonable Accommodation	6-58
	Utility Allowance Revisions.....	6-58
6-III.E.	Prorated Assistance for Mixed Families [24 CFR 5.520].....	6-59
Exhibit 6-1:	Annual Income Inclusions	6-61
	HHS Definition of "Assistance"	6-62
Exhibit 6-2:	Annual Income Exclusions	6-64
Exhibit 6-3:	Treatment of Family Assets	6-66
Exhibit 6-4:	Earned Income Disallowance for Persons with Disabilities	6-67
Exhibit 6-5:	The Effect of Welfare Benefit Reduction	6-69

Administrative Plan -Table of Contents

Chapter 7 VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2018-18]

PART I:	GENERAL VERIFICATION REQUIREMENTS	7-1
7-I.A.	Family Consent to Release of Information [24 CFR 982.516 and 982.551, 24 CFR 5.230].....	7-1
	Consent Forms	7-1
	Penalties for Failing to Consent [24 CFR 5.232].....	7-1
7-I.B.	Overview of Verification Requirements.....	7-2
	HUD’s Verification Hierarchy [Notice PIH 2018-18]	7-2
	Requirements for Acceptable Documents	7-2
	File Documentation	7-3
7-I.C.	Up-Front Income Verification (UIV)	7-3
	Upfront Income Verification Using HUD’s Enterprise Income Verification (EIV) System (Mandatory).....	7-4
	Upfront Income Verification Using Non-HUD Systems (Optional)	7-5
7-I.D.	Third-Party Written and Oral Verification	7-6
	Written Third-Party Verification [Notice PIH 2018-18]	7-6
	Written Third-Party Verification Form	7-7
	Oral Third-Party Verification [Notice PIH 2018-18]	7-7
	When Third-Party Verification is Not Required [Notice PIH 2018-18]	7-8
7-I.E.	Self-Certification	7-9
PART II:	VERIFYING FAMILY INFORMATION	7-11
7-II.A.	Verification of Legal Identity	7-11
7-II.B.	Social Security Numbers [24 CFR 5.216, Notice PIH 2018-24].....	7-12
7-II.C.	Documentation of Age.....	7-14
7-II.D.	Family Relationships	7-14
	Marriage.....	7-14
	Separation or Divorce	7-15
	Absence of Adult Member.....	7-15
	Foster Children and Foster Adults	7-15
7-II.E.	Verification of Student Status.....	7-16
	General Requirements	7-16
	Restrictions on Assistance to Students Enrolled in Institutions of Higher Education.....	7-16
7-II.F.	Documentation of Disability.....	7-17
	Family Members Receiving SSA Disability Benefits	7-18
	Family Members Not Receiving SSA Disability Benefits	7-18
7-II.G.	Citizenship or Eligible Immigration Status [24 CFR 5.508]	7-19
	Overview.....	7-19
	U.S. Citizens and Nationals	7-19
	Eligible Immigrants	7-20
7-II.H.	Verification of Preference Status.....	7-20

Administrative Plan -Table of Contents

PART III:	VERIFYING INCOME AND ASSETS	7-21
	7-III.A. Earned Income	7-21
	Tips	7-21
	7-III.B. Business and Self Employment Income	7-21
	7-III.C. Periodic Payments and Payments In Lieu of Earnings	7-22
	Social Security/SSI Benefits.....	7-22
	7-III.D. Alimony or Child Support	7-23
	7-III.E. Assets and Income From Assets	7-24
	Assets Disposed of for Less than Fair Market Value	7-24
	7-III.F. Net Income From Rental Property	7-22
	7-III.G. Retirement Accounts	7-25
	7-III.H. Income From Excluded Sources	7-26
	7-III.I. Zero Annual Income Status	7-26
	7-III.J. Student Financial Assistance	7-27
	7-III.K. Parental Income of Students Subject to Eligibility Restrictions.....	7-28
PART IV:	VERIFYING MANDATORY DEDUCTIONS	7-29
	7-IV.A. Dependent and Elderly/Disabled Household Deductions.....	7-29
	Dependent Deduction	7-29
	Elderly/Disabled Family Deduction	7-27
	7-IV.B. Medical Expense Deduction	7-30
	Amount of Expense	7-30
	Eligible Household	7-31
	Qualified Expenses	7-31
	Unreimbursed Expenses	7-31
	Expenses Incurred in Past Years.....	7-31
	7-IV.C. Disability Assistance Expenses	7-32
	Amount of Expense	7-32
	Family Member is a Person with Disabilities.....	7-33
	Family Member(s) Permitted to Work	7-33
	Unreimbursed Expenses	7-33
	7-IV.D. Child Care Expenses.....	7-34
	Eligible Child.....	7-34
	Unreimbursed Expense.....	7-34
	Pursuing an Eligible Activity.....	7-35
	Allowable Type of Child Care.....	7-36
	Reasonableness of Expenses.....	7-36
	Exhibit 7-1: Summary of Documentation Requirements for Noncitizens [HCV GB, pp. 5-9 and 5-10].....	7-37

Administrative Plan -Table of Contents

**Chapter 8
HOUSING QUALITY STANDARDS AND RENT REASONABLENESS
DETERMINATIONS**

[24 CFR 982 Subpart I and 24 CFR 982.507]

PART I:	PHYSICAL STANDARDS	8-2
8-I.A.	General HUD Requirements	8-2
	HUD Performance and Acceptability Standards	8-2
	Tenant Preference Items	8-2
	Modifications to Provide Accessibility	8-3
8-I.B.	Additional Local Requirements	8-4
	Thermal Environment [HCV GB p.10-7]	8-4
	Clarifications of HUD Requirements	8-5
8-I.C.	Life-Threatening Conditions [24 CFR 982.404(a); FR Notice 1/18/17]	8-6
8-I.D.	Owner and Family Responsibilities [24 CFR 982.404].....	8-9
	Family Responsibilities	8-9
	Owner Responsibilities	8-7
8-I.E.	Special Requirements for Children with Elevated Blood Lead Level [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13].....	8-10
8-I.F.	Violation of HQS Space Standards [24 CFR 982.401, 24 CFR 982.403].....	8-10
PART II:	THE INSPECTION PROCESS	8-11
8-II.A.	Overview [24 CFR 982.405]	8-11
	Types of Inspections	8-11
	Inspection of PHA-Owned Units [24 CFR 982.352(b)]	8-11
	Inspection Costs [Notice PIH 2016-05].....	8-12
	Notice and Scheduling	8-12
	Owner and Family Inspection Attendance	8-12
8-II.B.	Initial HQS Inspection [24 CFR 982.401(a)]	8-13
	Initial Inspections [FR Notice 1/18/17]	8-13
	Timing of Initial Inspections	8-13
	Inspection Results and Reinspections.....	8-13
	Utilities	8-14
	Appliances [Form HUD-52580]	8-14
8-II.C.	Annual/Biennial HQS Inspections [24 CFR 982.405 and 982.406; Notice PIH 2016-05].....	8-15
	Scheduling the Inspection.....	8-15
8-II.D.	Special Inspections [24 CFR 982.405(g)].....	8-15
8-II.E.	Quality Control Inspections [24 CFR 982.405(b), HCV GB p. 10-32].....	8-16

Administrative Plan -Table of Contents

8-II.F.	Inspection Results and Reinspections for Units Under HAP Contract.....	8-16
	Notification of Corrective Actions	8-16
	Extensions.....	8-17
	Reinspections.....	8-17
8-II.G.	Enforcing Owner Compliance	8-18
	HAP Abatement.....	8-18
	HAP Contract Termination.....	8-18
8-II.H.	Enforcing Family Compliance with HQS [24 CFR 982.404(b)].....	8-18
PART III:	RENT REASONABLENESS [24 CFR 982.507].....	8-19
8-III.A.	Overview.....	8-19
	PHA-Owned Units [24 CFR 982.352(b)]	8-19
8-III.B.	When Rent Reasonableness Determinations Are Required.....	8-20
	Owner-Initiated Rent Determinations.....	8-20
	PHA- and HUD-Initiated Rent Reasonableness Determinations ...	8-20
	LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)].....	8-21
8-III.C.	How Comparability Is Established	8-21
	Factors to Consider	8-21
	Units that Must Not be Used as Comparables	8-21
	Rents Charged for Other Units on the Premises.....	8-22
8-III.D.	PHA Rent Reasonableness Methodology	8-23
	How Market Data Is Collected	8-23
	How Rents Are Determined.....	8-23
Exhibit 8-1:	Overview of HUD Housing Quality Standards.....	8-25
Exhibit 8-2:	Summary of Tenant Preference Areas Related to Housing Quality.....	8-29

Administrative Plan -Table of Contents

**Chapter 9
GENERAL LEASING POLICIES**

9-I.A.	Tenant Screening	9-2
9-I.B.	Requesting Tenancy Approval [Form HUD-52517]	9-3
9-I.C.	Owner Participation	9-4
9-I.D.	Eligible Units	9-5
	Ineligible Units [24 CFR 982.352(a)].....	9-5
	PHA-Owned Units [24 CFR 982.352(b)]	9-5
	Special Housing Types [24 CFR 982 Subpart M]	9-5
	Duplicative Assistance [24 CFR 982.352(c)]	9-6
	Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]	9-6
	Unit Size	9-7
	Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507].....	9-7
	Rent Burden [24 CFR 982.508].....	9-7
9-I.E.	Lease and Tenancy Addendum.....	9-8
	Lease Form and Tenancy Addendum [24 CFR 982.308]	9-8
	Lease Information [24 CFR 982.308(d)]	9-8
	Term of Assisted Tenancy	9-9
	Security Deposit [24 CFR 982.313 (a) and (b)]	9-9
	Separate Non-Lease Agreements between Owner and Tenant.....	9-10
	PHA Review of Lease	9-11
9-I.F.	Tenancy Approval [24 CFR 982.305]	9-12
9-I.G.	HAP Contract Execution [24 CFR 982.305]	9-13
9-I.H.	Changes in Lease or Rent [24 CFR 982.308].....	9-14

Administrative Plan -Table of Contents

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

PART I:	MOVING WITH CONTINUED ASSISTANCE	10-1
	10-I.A. Allowable Moves.....	10-1
	10-I.B. Restrictions On Moves.....	10-3
	Denial of Moves	10-3
	Restrictions on Elective Moves [24 CFR 982.354(c)].....	10-4
	10-I.C. Moving Process	10-5
	Notification	10-5
	Approval	10-5
	Reexamination of Family Income and Composition	10-5
	Voucher Issuance and Briefing.....	10-5
	Housing Assistance Payments [24 CFR 982.311(d)]	10-6
	HAP Families Who Wish to Move [24 CFR 982.455].....	10-6
PART II:	PORTABILITY	10-7
	10-II.A. Overview.....	10-7
	10-II.B. Initial PHA Role	10-8
	Allowable Moves under Portability.....	10-8
	Determining Income Eligibility	10-9
	Reexamination of Family Income and Composition	10-9
	Briefing	10-10
	Voucher Issuance and Term	10-10
	Voucher Extensions and Expiration	10-10
	Preapproval Contact with the Receiving PHA	10-11
	Initial Notification to the Receiving PHA	10-11
	Sending Documentation to the Receiving PHA	10-12
	Initial Billing Deadline [Notice PIH 2016-09]	10-13
	Monthly Billing Payments [Notice PIH 2016-09]	10-14
	Annual Updates of Form HUD-50058	10-14
	Denial or Termination of Assistance [24 CFR 982.355(c)(17)] ...	10-14
	10-II.C. Receiving PHA Role.....	10-15
	Responding to Initial PHA’s Request [24 CFR 982.355(c)]	10-15
	Initial Contact with Family	10-15
	Briefing	10-16
	Income Eligibility and Reexamination	10-16
	Voucher Issuance.....	10-17
	Notifying the Initial PHA	10-18
	Administering a Portable Family’s Voucher	10-18
	Absorbing a Portable Family	10-22

Administrative Plan -Table of Contents

**Chapter 11
REEXAMINATIONS**

PART I:	ANNUAL REEXAMINATIONS [24 CFR 982.516].....	11-1
	11-I.A. Overview.....	11-1
	11-I.B. Streamlined Annual Reexaminations [24 CFR 982.516(b)].....	11-2
	11-I.C. Scheduling Annual Reexaminations.....	11-3
	Notification of and Participation in the Annual Reexamination Process.....	11-3
	11-I.D. Conducting Annual Reexaminations.....	11-4
	11-I.E. Determining Ongoing Eligibility of Certain Students [24 CFR 982.552(b)(5)].....	11-6
	11-I.F. Effective Dates.....	11-7
PART II:	INTERIM REEXAMINATIONS [24 CFR 982.516].....	11-9
	11-II.A. Overview.....	11-9
	11-II.B. Changes In Family and Household Composition.....	11-9
	New Family Members <u>Not</u> Requiring PHA Approval.....	11-9
	New Family and Household Members Requiring Approval.....	11-10
	Departure of a Family or Household Member.....	11-11
	11-II.C. Changes Affecting Income or Expenses.....	11-12
	PHA-Initiated Interim Reexaminations.....	11-12
	Family-Initiated Interim Reexaminations.....	11-13
	11-II.D. Processing the Interim Reexamination.....	11-14
	Method of Reporting.....	11-14
	Effective Dates.....	11-14
PART III:	RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT.....	11-15
	11-III.A. Overview.....	11-15
	11-III.B. Changes In Payment Standards and Utility Allowances.....	11-15
	Payment Standards [24 CFR 982.505].....	11-15
	Subsidy Standards [24 CFR 982.505(c)(4)].....	11-16
	Utility Allowances [24 CFR 982.517(d)].....	11-16
	11-III.C. Notification of New Family Share and HAP Amount.....	11-16
	11-III.D. Discrepancies.....	11-16

Administrative Plan -Table of Contents

Chapter 12 TERMINATION OF ASSISTANCE AND TENANCY

PART I:	FOUNDATIONS FOR TERMINATION OF ASSISTANCE.....	12-1
12-I.A.	Overview.....	12-1
12-I.B.	Family No Longer Requires Assistance [24 CFR 982.455].....	12-1
12-I.C.	Family Chooses to Terminate Assistance.....	12-2
12-I.D.	Mandatory Termination of Assistance.....	12-2
	Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)].....	12-2
	Failure to Provide Consent [24 CFR 982.552(b)(3)].....	12-2
	Failure to Document Citizenship [24 CFR 982.552(b)(4) and 24 CFR 5.514(c)].....	12-3
	Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24].....	12-3
	Methamphetamine Manufacture or Production [24 CFR 983.553(b)(1)(ii)].....	12-3
	Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06].....	12-3
	Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-3].....	12-4
12-I.E.	Mandatory Policies and Other Authorized Terminations.....	12-4
	Mandatory Policies [24 CFR 982.553(b) and 982.551(l)].....	12-4
	Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c)].....	12-7
PART II:	APPROACH TO TERMINATION OF ASSISTANCE.....	12-11
12-II.A.	Overview.....	12-11
12-II.B.	Method of Termination [24 CFR 982.552(a)(3)].....	12-11
12-II.C.	Alternatives to Termination of Assistance.....	12-11
	Change in Household Composition.....	12-11
	Repayment of Family Debts.....	12-11
12-II.D.	Criteria for Deciding to Terminate Assistance.....	12-12
	Evidence.....	12-12
	Consideration of Circumstances [24 CFR 982.552(c)(2)(i)].....	12-12
	Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)].....	12-13
12-II.E.	Terminations Related to Domestic Violence, Dating Violence, Sexual Assault or Stalking.....	12-14
	VAWA Protections against Terminations.....	12-14
	Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)].....	12-15
	Documentation of Abuse [24 CFR 5.2007].....	12-16
	Terminating the Assistance of a Domestic Violence Perpetrator.....	12-16
12-II.F.	Termination Notice.....	12-18

Administrative Plan -Table of Contents

PART III:	TERMINATION OF TENANCY BY THE OWNER.....	12-19
	12-III.A. Overview.....	12-19
	12-III.B. Grounds for Owner Termination of Tenancy [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum].....	12-19
	Serious or Repeated Lease Violations	12-19
	Violation of Federal, State, or Local Law	12-19
	Criminal Activity or Alcohol Abuse.....	12-19
	Other Good Cause.....	12-20
	12-III.C. Eviction [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]	12-21
	12-III.D. Deciding Whether to Terminate Tenancy [24 CFR 982.310(h), 24 CFR 982.310(h)(4)].....	12-20
	12-III.E. Effect of Tenancy Termination on the Family's Assistance.....	12-22
Exhibit 12-1:	Statement of Family Obligations.....	12-23

Administrative Plan -Table of Contents

Chapter 13 OWNERS

PART I:	OWNERS IN THE HCV PROGRAM.....	13-3
	13-I.A. Owner Recruitment and Retention [HCV GB, pp. 2-4 to 2-6].....	13-3
	Recruitment.....	13-3
	Retention.....	13-4
	13-I.B. Basic HCV Program Requirements	13-5
	13-I.C. Owner Responsibilities [24 CFR 982.452].....	13-7
	13-I.D. Owner Qualifications.....	13-8
	Owners Barred from Participation [24 CFR 982.306(a) and (b)]... 13-8	
	Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2].....	13-8
	Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19].....	13-8
	Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]	13-10
	Legal Ownership of Unit	13-11
	13-I.E. Non-Discrimination [HAP Contract – Form HUD-52641].....	13-11
PART II:	HAP CONTRACTS.....	13-13
	13-II.A. Overview.....	13-13
	13-II.B. HAP Contract Contents	13-14
	13-II.C. HAP Contract Payments	13-16
	General.....	13-16
	Owner Certification of Compliance.....	13-16
	Late HAP Payments [24 CFR 982.451(a)(5)]	13-17
	Termination of HAP Payments [24 CFR 982.311(b)].....	13-17
	13-II.D. Breach of HAP Contract [24 CFR 982.453].....	13-18
	13-II.E. HAP Contract Term and Terminations.....	13-19
	13-II.F. Change In Ownership / Assignment of the HAP Contract [HUD-52641].....	13-21

Administrative Plan -Table of Contents

Chapter 14 PROGRAM INTEGRITY

PART I:	PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE	14-3
14-I.A.	Preventing Errors and Program Abuse	14-3
14-I.B.	Detecting Errors and Program Abuse	14-4
	Quality Control and Analysis of Data.....	14-4
	Independent Audits and HUD Monitoring	14-4
	Individual Reporting of Possible Errors and Program Abuse.....	14-4
14-I.C.	Investigating Errors and Program Abuse.....	14-5
	When the PHA Will Investigate	14-5
	Consent to Release of Information [24 CFR 982.516]	14-5
	Analysis and Findings.....	14-5
	Consideration of Remedies.....	14-6
	Notice and Appeals.....	14-6
PART II:	CORRECTIVE MEASURES AND PENALTIES	14-7
14-II.A.	Subsidy Under- or Overpayments.....	14-7
	Corrections.....	14-7
	Reimbursement.....	14-7
14-II.B.	Family-Caused Errors and Program Abuse	14-8
	Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]	14-8
	PHA Reimbursement to Family [HCV GB p. 22-12].....	14-8
	Prohibited Actions	14-9
	Penalties for Program Abuse	14-9
14-II.C.	Owner-Caused Error or Program Abuse.....	14-10
	Owner Reimbursement to the PHA	14-10
	Prohibited Owner Actions	14-10
	Remedies and Penalties	14-11
14-II.D.	PHA-Caused Errors or Program Abuse	14-12
	Repayment to the PHA	14-12
	PHA Reimbursement to Family or Owner	14-12
	Prohibited Activities	14-12
14-II.E.	Criminal Prosecution	14-13
14-II.F.	Fraud and Program Abuse Recoveries.....	14-14

Administrative Plan -Table of Contents

Chapter 15 SPECIAL HOUSING TYPES [24 CFR 982 Subpart M]

PART I:	SINGLE ROOM OCCUPANCY [24 CFR 982.602 through 982.605]	15-3
	15-I.A. Overview.....	15-3
	15-I.B. Payment Standard, Utility Allowance, and HAP Calculation	15-3
	15-I.C. Housing Quality Standards (HQS)	15-3
PART II:	CONGREGATE HOUSING [24 CFR 982.606 through 982.609]	15-5
	15-II.A. Overview.....	15-5
	15-II.B. Payment Standard, Utility Allowance, and HAP Calculation	15-6
	15-II.C. Housing Quality Standards	15-6
PART III:	GROUP HOME [24 CFR 982.610 through 982.614 and HCV GB p. 7-4]	15-7
	15-III.A. Overview.....	15-7
	15-III.B. Payment Standard, Utility Allowance, and HAP Calculation	15-7
	15-III.C. Housing Quality Standards	15-8
PART IV:	SHARED HOUSING [24 CFR 982.615 through 982.618]	15-9
	15-IV.I. Overview.....	15-9
	15-IV.B. Payment Standard, Utility Allowance and HAP Calculation	15-9
	15-IV.C. Housing Quality Standards	15-10
PART V:	COOPERATIVE HOUSING [24 CFR 982.619].....	15-11
	15-V.A. Overview.....	15-11
	15-V.B. Payment Standard, Utility Allowance and HAP Calculation	15-11
	15-V.C. Housing Quality Standards	15-11
PART VI:	MANUFACTURED HOMES [24 CFR 982.620 through 982.624; FR Notice 1/18/17]	15-13
	15-VI.A. Overview.....	15-13
	15-VI.B. Special Policies for Manufactured Home Owners	
	Who Lease A Space.....	15-13
	Family Income	15-13
	Lease and HAP Contract.....	15-13
	15-VI.C. Payment Standard, Utility Allowance and HAP Calculation [FR Notice 1/18/17]	15-14
	Payment Standards.....	15-14
	Utility Allowance.....	15-14
	Space Rent	15-14
	Amortization Costs	15-15
	Housing Assistance Payment.....	15-15
	Rent Reasonableness	15-15
	15-VI.D. Housing Quality Standards	15-16

Administrative Plan -Table of Contents

PART VII: HOMEOWNERSHIP [24 CFR 982.625 through 982.643]..... 15-17

- 15-VII.A. Overview [24 CFR 982.625]..... 15-17
- 15-VII.B. Family Eligibility [24 CFR 982.627]..... 15-18
- 15-VII.C. Selection of Families [24 CFR 982.626] 15-19
- 15-VII.D. Eligible Units [24 CFR 982.628] 15-19
- 15-VII.E. Additional PHA Requirements for Search and Purchase
[24 CFR 982.629] 15-20
- 15-VII.F. Homeownership Counseling [24 CFR 982.630]..... 15-21
- 15-VII.G. Home Inspections, Contract of Sale, and PHA Disapproval of
Seller [24 CFR 982.631]..... 15-22
 - Home Inspections 15-22
 - Contract of Sale 15-22
 - Disapproval of a Seller 15-22
- 15-VII.H. Financing [24 CFR 982.632] 15-23
- 15-VII.I. Continued Assistance Requirements; Family Obligations
[24 CFR 982.633] 15-23
- 15-VII.J. Maximum Term of Homeowner Assistance [24 CFR 982.634]..... 15-24
- 15-VII.K. Homeownership Assistance Payments and Homeownership
Expenses [24 CFR 982.635] 15-24
- 15-VII.L. Portability [24 CFR 982.636, 982.637, 982.353(b) and (c),
982.552, 982.553] 15-27
- 15-VII.M. Moving with Continued Assistance [24 CFR 982.637] 15-27
- 15-VII.N. Denial or Termination of Assistance [24 CFR 982.638] 15-28

Administrative Plan -Table of Contents

**Chapter 16
PROGRAM ADMINISTRATION**

PART I:	ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]	16-3
PART II:	SETTING PROGRAM STANDARDS AND SCHEDULES.....	16-5
	16-II.A. Overview.....	16-5
	16-II.B. Payment Standards [24 CFR 982.503; HCV GB, Chapter 7].....	16-5
	Updating Payment Standards.....	16-6
	Exception Payment Standards [24 CFR 982.503(c)].....	16-7
	Voluntary Use of Small Area FMRs [24 CFR 982.503, Notice PIH 2018-01].....	16-7
	Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26].....	16-7
	"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)].....	16-8
	Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]	16-8
	16-II.C. Utility Allowances [24 CFR 982.517]	16-9
	Air Conditioning.....	16-9
	Reasonable Accommodation	16-9
	Utility Allowance Revisions.....	16-9
PART III:	INFORMAL REVIEWS AND HEARINGS	16-11
	16-III.A. Overview.....	16-11
	16-III.B. Informal Reviews.....	16-11
	Decisions Subject to Informal Review	16-11
	Notice to the Applicant [24 CFR 982.554(a)]	16-12
	Scheduling an Informal Review	16-12
	Informal Review Procedures [24 CFR 982.554(b)]	16-12
	Informal Review Decision [24 CFR 982.554(b)]	16-13
	16-III.C. Informal Hearings for Participants [24 CFR 982.555]	16-14
	Decisions Subject to Informal Hearing.....	16-14
	Informal Hearing Procedures.....	16-16
	16-III.D. Hearing and Appeal Provisions for Noncitizens [24 CFR 5.514]	16-23
	Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]	16-23
	USCIS Appeal Process [24 CFR 5.514(e)].....	16-24
	Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]	16-24
	Informal Hearing Procedures for Residents [24 CFR 5.514(f)]	16-26
	Retention of Documents [24 CFR 5.514(h)]	16-26

Administrative Plan -Table of Contents

PART IV:	OWNER OR FAMILY DEBTS TO THE PHA	16-27
	16-IV.A. Overview.....	16-27
	16-IV.B. Repayment Policy	16-28

	Owner Debts to the PHA	16-28
	Family Debts to the PHA.....	16-28
	Repayment Agreement [24 CFR 792.103]	16-28
	General Repayment Agreement Guidelines for Families	16-28
	Repayment Agreements Involving Improper Payments.....	16-30
PART V:	SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP).....	16-31
	16-V.A. Overview.....	16-31
	16-V.B. SEMAP Certification [24 CFR 985.101].....	16-32
	HUD Verification Method	16-32
	16-V.C. SEMAP Indicators [24 CFR 985.3 and form HUD-52648]	16-33
	SEMAP Indicators Chart	16-33
PART VI:	RECORD KEEPING	16-37
	16-VI.A. Overview.....	16-37
	16-VI.B. Record Retention [24 CFR 982.158]	16-37
	16-VI.C. Records Management	16-38
	Privacy Act Requirements [24 CFR 5.212 and Form-9886]	16-38
	Upfront Income Verification (UIV) Records.....	16-38
	Criminal Records	16-39
	Medical/Disability Records	16-39
	Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.....	16-39
PART VII:	REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL.....	16-41
	16-VII.A.Overview	16-41
	16-VII.B. Reporting Requirement [24 CFR 35.1225(e)); Notice PIH 2017-13].....	16-41
	16-VII.C. Data Collection and Record Keeping [24 CFR 35.1225(f)].....	16-41
PART VIII:	DETERMINATION OF INSUFFICIENT FUNDING.....	16-43
	16-VIII.A. Overview	16-43
	16-VIII.B. Methodology	16-43

Administrative Plan -Table of Contents

PART IX:	VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY	16-45
	16-IX.A. Overview	16-45
	16-IX.B. Definitions [24 CFR 5.2003]	16-45
	16-IX.C. Notification [24 CFR 5.2005(a), 42 USC 13925]	16-47
	Notification to Public.....	16-47
	Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]	16-48
	Notification to Owners and Managers	16-49
	16-IX.D. Documentation [24 CFR 5.2007]	16-50
	Conflicting Documentation [24 CFR 5.2007(e)].....	16-51
	Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]	16-51
	Failure to Provide Documentation [24 CFR 5.2007(c)]	16-52
	16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]	16-52

Exhibit 16-1: Sample Notice of Occupancy Rights Under the Violence
Against Women Act, Form HUD-5380 16-53

Exhibit 16-2: Certification of Domestic Violence, Dating Violence, Sexual Assault,
or Stalking and Alternate Documentation, Form HUD-5382..... 16-59

Exhibit 16-3: Emergency Transfer Plan for Victims of Domestic Violence,
Dating Violence, Sexual Assault, or Stalking (HCV Version) 16-61

Exhibit 16-4: Emergency Transfer Request for Certain Victims of Domestic Violence,
Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 16-65

Exhibit 16-5: Model Owner Notification of Rights and Obligations 16-69

Administrative Plan -Table of Contents

**Chapter 17
PROJECT-BASED VOUCHERS**

PART I:	GENERAL REQUIREMENTS.....	17-3
17-I.A.	Overview [24 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21].....	17-3
	Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21].....	17-3
	Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17; Notice PIH 2017-21].....	17-4
17-I.B.	Tenant-Based vs. Project-Based Voucher Assistance [24 CFR 983.2].....	17-5
17-I.C.	Relocation Requirements [24 CFR 983.7].....	17-5
17-I.D.	Equal Opportunity Requirements [24 CFR 983.8].....	17-5
PART II:	PBV OWNER PROPOSALS.....	17-7
17-II.A.	Overview.....	17-7
17-II.B.	Owner Proposal Selection Procedures [24 CFR 983.51(b)].....	17-7
	Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21].....	17-7
	Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)].....	17-8
	PHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17 and Notice PIH 2017-21].....	17-11
	PHA Notice of Owner Selection [24 CFR 983.51(d)].....	17-12
17-II.C.	Housing Type [24 CFR 983.52].....	17-12
17-II.D.	Prohibition of Assistance for Certain Units.....	17-13
	Ineligible Housing Types [24 CFR 983.53].....	17-13
	Subsidized Housing [24 CFR 983.54].....	17-13
17-II.E.	Subsidy Layering Requirements [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14].....	17-14
17-II.F.	Cap On Number of PBV Units in Each Project.....	17-15
	25 Percent per Project Cap [24 CFR 983.56, FR Notice 1/18/17, and Notice PIH 2017-21].....	17-15
	Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21].....	17-15
	Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21].....	17-16
	Promoting Partially-Assisted Projects [24 CFR 983.56(c)].....	17-16

Administrative Plan -Table of Contents

17-II.G. Site Selection Standards.....	17-17
Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)].....	17-17
Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)].....	17-18
New Construction Site and Neighborhood Standards [24 CFR 983.57(e)].....	17-18
17-II.H. Environmental Review [24 CFR 983.58]	17-19
PART III: DWELLING UNITS.....	17-21
17-III.A. Overview.....	17-21
17-III.B. Housing Quality Standards [24 CFR 983.101]	17-21
Lead-based Paint [24 CFR 983.101(c)]	17-21
17-III.C. Housing Accessibility for Persons with Disabilities.....	17-21
17-III.D. Inspecting Units	17-22
Pre-selection Inspection [24 CFR 983.103(a)]	17-22
Pre-HAP Contract Inspections [24 CFR 983.103(b)]	17-22
Turnover Inspections [24 CFR 983.103(c)], FR Notice 1/18/17, and Notice PIH 2017-20]	17-22
Annual/Biennial Inspections [24 CFR 983.103(d), FR Notice 6/25/14]	17-22
Other Inspections [24 CFR 983.103(e)]	17-23
Inspecting PHA-Owned Units [24 CFR 983.103(f)].....	17-23
PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS	17-25
17-IV.A. Overview [24 CFR 983.151]	17-25
17-IV.B. Agreement to Enter into HAP Contract.....	17-25
Content of the Agreement [24 CFR 983.152(d)].....	17-26
Execution of the Agreement [24 CFR 983.153]	17-26
17-IV.C. Conduct of Development Work.....	17-27
Labor Standards [24 CFR 983.154(b)]	17-27
Equal Opportunity [24 CFR 983.154(c)].....	17-27
Owner Disclosure [24 CFR 983.154(d) and (e)]	17-27
17-IV.D. Completion of Housing.....	17-28
Evidence of Completion [24 CFR 983.155(b)]	17-28
PHA Acceptance of Completed Units [24 CFR 983.156]	17-28

Administrative Plan -Table of Contents

PART V:	HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)	17-29
	17-V.A. Overview.....	17-29
	17-V.B. HAP Contract Requirements.....	17-29
	Contract Information [24 CFR 983.203]	17-29
	Execution of the HAP Contract [24 CFR 983.204].....	17-30
	Term of HAP Contract [24 CFR 983.205, FR Notice 1/18/17, and Notice PIH 2017-21]	17-30
	Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17, and Notice PIH 2017-21]	17-32
	Remedies for HQS Violations [24 CFR 983.208(b)].....	17-32
	17-V.C. Amendments to the HAP Contract	17-33
	Substitution of Contract Units [24 CFR 983.207(a)].....	17-33
	Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]	17-33
	17-V.D. HAP Contract Year, Anniversary and Expiration Dates [24 CFR 983.207(b) and 983.302(e)]	17-33
	17-V.E. Owner Responsibilities Under the HAP [24 CFR 983.210].....	17-34
	17-V.F. Additional HAP Requirements	17-35
	Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)].....	17-35
	Vacancy Payments [24 CFR 983.352(b)]	17-35
PART VI:	SELECTION OF PBV PROGRAM PARTICIPANTS	17-37
	17-VI.A. Overview.....	17-37
	17-VI.B. Eligibility for PBV Assistance [24 CFR 983.251(a) and (b)]	17-37
	In-Place Families [24 CFR 983.251(b)]	17-38
	17-VI.C. Organization of the Waiting List [24 CFR 983.251(c)].....	17-39
	17-VI.D. Selection From the Waiting List [24 CFR 983.251(c)].....	17-39
	Income Targeting [24 CFR 983.251(c)(6)].....	17-39
	Units with Accessibility Features [24 CFR 983.251(c)(7)].....	17-39
	Preferences [24 CFR 983.251(d), FR Notice 11/24/08]	17-40
	17-VI.E. Offer of PBV Assistance	17-41
	Refusal of Offer [24 CFR 983.251(e)(3)]	17-41
	Disapproval by Landlord [24 CFR 983.251(e)(2)]	17-41
	Acceptance of Offer [24 CFR 983.252].....	17-41
	17-VI.F. Owner Selection of Tenants.....	17-42
	Leasing [24 CFR 983.253(a)]	17-42
	Filling Vacancies [24 CFR 983.254(a)].....	17-42
	Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]	17-42
	17-VI.G. Tenant Screening [24 CFR 983.255].....	17-43
	PHA Responsibility	17-43
	Owner Responsibility	17-43

Administrative Plan -Table of Contents

PART VII: OCCUPANCY	17-44
17-VII.A.Overview.....	17-44
17-VII.B. Lease [24 CFR 983.256].....	17-44
Form of Lease [24 CFR 983.256(b)].....	17-44
Lease Requirements [24 CFR 983.256(c)].....	17-44
Tenancy Addendum [24 CFR 983.256(d)].....	17-46
Initial Term and Lease Renewal [24 CFR 983.256(f)].....	17-46
Changes in the Lease [24 CFR 983.256(e)].....	17-46
Owner Termination of Tenancy [24 CFR 983.257].....	17-47
Continuation of Housing Assistance Payments [24 CFR 983.258].....	17-47
Security Deposits [24 CFR 983.259].....	17-48
17-VII.C. Moves.....	17-49
Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260].....	17-49
Family Right to Move [24 CFR 983.261].....	17-50
Emergency Transfers under VAWA [Notice PIH 2017-08].....	17-51
17-VII.D.Exceptions to the Occupancy Cap [24 CFR 983.262].....	17-52
PART VIII: DETERMINING RENT TO OWNER	17-55
17-VIII.A. Overview.....	17-55
17-VIII.B. Rent Limits [24 CFR 983.301].....	17-55
Certain Tax Credit Units [24 CFR 983.301(c)].....	17-55
Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)].....	17-56
Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)].....	17-57
Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)].....	17-57
Redetermination of Rent [24 CFR 983.302].....	17-58
PHA-Owned Units [24 CFR 983.301(g)].....	17-58
17-VIII.C. Reasonable Rent [24 CFR 983.303].....	17-59
When Rent Reasonable Determinations Are Required.....	17-59
How to Determine Reasonable Rent.....	17-59
PHA-Owned Units.....	17-60
Owner Certification of Reasonable Rent.....	17-60
17-VIII.D. Effect of Other Subsidy and Rent Control.....	17-60
Other Subsidy [24 CFR 983.304].....	17-60
Rent Control [24 CFR 983.305].....	17-60

Administrative Plan -Table of Contents

PART IX: PAYMENTS TO OWNER 17-61

 17-IX.A. Housing Assistance Payments [24 CFR 983.351] 17-61

 17-IX.B. Vacancy Payments [24 CFR 983.352]..... 17-61

 17-IX.C. Tenant Rent to Owner [24 CFR 983.353] 17-63

 Tenant and PHA Responsibilities 17-63

 Utility Reimbursements 17-63

 17-IX.D. Other Fees and Charges [24 CFR 983.354]..... 17-64

 Meals and Supportive Services..... 17-64

 Other Charges by Owner 17-64

Exhibit 17-1: PBV Development Information 17-65

Administrative Plan -Table of Contents

Chapter 18

PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

PART I:	GENERAL REQUIREMENTS	18-3
	18-I.A. Overview and History of the RAD Program	18-3
	18-I.B. Applicable Regulations.....	18-4
	18-I.C. Tenant-Based Vs. Project-Based Voucher Assistance [24 CFR 983.2]	18-6
	18-I.D. Relocation Requirements [Notice PIH 2016-17].....	18-6
	18-I.E. Equal Opportunity Requirements [24 CFR 983.8; Notice PIH 2012-32, REV-3]	18-8
PART II:	PBV PROJECT SELECTION	18-9
	18-II.A. Overview.....	18-9
	18-II.B. Ownership and Control [Notice PIH 2012-32, REV-3]	18-9
	18-II.C. PHA-Owned Units [24 CFR 983.59; FR Notice 1/18/17, and Notice PIH 2017-21].....	18-10
	18-II.D. Subsidy Layering Requirements [Notice PIH 2012-32, REV-3]	18-11
	18-II.E. PBV Percentage Limitation [Notice PIH 2012-32, REV-3].....	18-11
	18-II.F. Site Selection Standards [Notice PIH 2012-32, REV-3; Notice PIH 2016-17].....	18-12
	18-II.G. Environmental Review [Notice PIH 2012-32, REV-3]	18-12
PART III:	DWELLING UNITS	18-13
	18-III.A. Overview.....	18-13
	18-III.B. Housing Quality Standards [24 CFR 983.101].....	18-13
	Lead-based Paint [24 CFR 983.101(c)]	18-13
	18-III.C. Housing Accessibility for Persons with Disabilities.....	18-13
	18-III.D. Inspecting Units	18-14
	Initial Inspection [Notice PIH 2012-32, REV-3].....	18-14
	Turnover Inspections [24 CFR 983.103(c)].....	18-14
	Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]	18-14
	Other Inspections [24 CFR 983.103(e)]	18-14
	Inspecting PHA-Owned Units [24 CFR 983.103(f)]	18-15

Administrative Plan -Table of Contents

PART IV:	HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT	18-17
	18-IV.A. Overview.....	18-17
	18-IV.B. HAP Contract Requirements	18-17
	Contract Information [PBV Quick Reference Guide (10/14)].....	18-17
	Execution and Effective date of the HAP Contract	
	[RADBlas! 7/11/16]	18-17
	Term of HAP Contract [Notice PIH 2012-32, REV-3]	18-17
	Agreement to Enter into a HAP (AHAP) Contract	
	[Notice PIH 2012-32, REV-3]	18-17
	Mandatory Contract Renewal [Notice PIH 2012-32, REV-3].....	18-18
	Remedies for HQS Violations [24 CFR 983.208(b)].....	18-18
	18-IV.C. Amendments to the HAP Contract	18-19
	Floating Units [Notice PIH 2012-32, REV-3].....	18-19
	Reduction in HAP Contract Units	
	[Notice PIH 2012-32, REV-3]	18-19
	18-IV.D. HAP Contract Year and Anniversary Dates [24 CFR 983.302(e)]	18-19
	18-IV.E. Owner Responsibilities under the HAP Contract	
	[24 CFR 983.210]	18-20
	18-IV.F. Vacancy Payments [24 CFR 983.352(b)].....	18-20
PART V:	SELECTION OF PBV PROGRAM PARTICIPANTS	18-21
	18-V.A. Overview.....	18-21
	18-V.B. Prohibited Rescreening of Existing Tenants upon Conversion	
	[Notice PIH 2012-32, REV-3]	18-21
	18-V.C. Eligibility for PBV Assistance [24 CFR 983.251(a) and (b)]	18-22
	18-V.D. Organization of the Waiting List [24 CFR 983.251(c);	
	Notice PIH 2012-32, REV-3]	18-23
	18-V.E. Selection from the Waiting List [24 CFR 983.251(c)]	18-24
	Income Targeting [24 CFR 983.251(c)(6);	
	Notice PIH 2012-32, REV-3]	18-24
	Units with Accessibility Features [24 CFR 983.251(c)(7)].....	18-24
	Preferences [24 CFR 983.251(d); FR Notice 11/24/08;	
	Notice PIH 2012-32, REV-3]	18-24
	18-V.F. Offer of PBV Assistance	18-25
	Refusal of Offer [24 CFR 983.251(e)(3)].....	18-25
	Disapproval by Landlord [24 CFR 983.251(e)(2)].....	18-25
	Acceptance of Offer [24 CFR 983.252].....	18-25
	18-V.G. Owner Selection of Tenants.....	18-26
	Leasing [24 CFR 983.253(a)]	18-26
	Filling Vacancies [24 CFR 983.254(a)].....	18-26
	18-V.H. Tenant Screening [24 CFR 983.255]	18-27
	PHA Responsibility	18-27
	Owner Responsibility	18-27

Administrative Plan -Table of Contents

PART VI: OCCUPANCY	18-29
18-VI.A. Overview.....	18-29
18-VI.B. Lease [24 CFR 983.256; Notice PIH2012-32, REV-3]	18-29
Lease Requirements [24 CFR 983.256(c); Notice PIH 2012-32, REV-3]	18-29
Tenancy Addendum [24 CFR 983.256(d)]	18-29
Initial Term and Lease Renewal [24 CFR 983.256(f); PBV Quick Reference Guide (10/14)].....	18-30
Changes in the Lease [24 CFR 983.256(e)].....	18-30
Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2012-32, REV-3]	18-31
Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2012-32, REV 3].....	18-30
Security Deposits [24 CFR 983.259; PBV Quick Reference Guide (10/14)].....	18-33
18-VI.C. Public Housing FSS and ROSS Participants [Notice PIH 2012-32, REV-3]	18-32
18-VI.D. Resident Participation and Funding [Notice PIH 2012-32, REV-3]	18-34
18-VI.E. Moves	18-35
Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2012-32, REV-3]	18-35
Family Right to Move [24 CFR 983.261]	18-36
Choice Mobility [Notice PIH 2012-32, REV-3].....	18-37
Turnover Cap	18-38
Emergency Transfers under VAWA [Notice PIH 2017-08]	18-39
18-VI.F. Reexaminations [PBV Quick Reference Guide (10/14)].....	18-40
18-VI.G. Earned Income Disallowance [Notice PIH2012-32, REV-3]	18-40
18-VI.H. Residents' Procedural Rights [Notice PIH2012-32, REV-3].....	18-40
18-VI.I. Informal Reviews and Hearings [Notice PIH 2012-32, REV-3].....	18-41
PART VII: DETERMINING CONTRACT RENT	18-43
18-VII.A. Initial Contract Rents [Notice PIH 2012-32, REV-3].....	18-43
18-VII.B. Adjusting Contract Rents [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14)].....	18-44
Rent Decrease	18-44
18-VII.C. Utility Allowances [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14); Notice PIH 2018-11]	18-45
18-VII.D. Reasonable Rent [24 CFR 983.303]	18-46
How to Determine Reasonable Rent.....	18-46
PHA-Owned Units.....	18-46

Administrative Plan -Table of Contents

PART VIII: PAYMENTS TO OWNER	18-47
18-VIII.A. Housing Assistance Payments	18-47
18-VIII.B. Vacancy Payments [24 CFR 983.352]	18-48
18-VIII.C. Tenant Rent to Owner [24 CFR 983.353]	18-49
Tenant and PHA Responsibilities	18-49
Utility Reimbursements	18-49
18-VIII.D. Phase-In of Tenant Rent Increases [Notice PIH 2012-32, REV-3]	18-50
18.VIII.E. Other Fees and Charges [24 CFR 983.354]	18-50
Meals and Supportive Services	18-50
Other Charges by Owner	18-50\
Exhibit 18-1: PBV Development Information	18-51
GLOSSARY	

Administrative Plan - Table of Contents

GLOSSARY

A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

AAF	Annual adjustment factor (published by HUD in the <i>Federal Register</i> and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
BR	Bedroom
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)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
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
HA	Housing authority or housing agency
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System

IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
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)
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
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
SWICA	State wage information collection agency

TANF	Temporary assistance for needy families
TPV	Tenant protection vouchers
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
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 persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), 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. Happening once a year.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA 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 24 CFR 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.

Biennial. Happening every two years.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Budget authority. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child. 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.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Common space. In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of databases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

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 authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

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, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities*.

Disallowance. Exclusion from annual income.

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 of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim

who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

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 24 CFR 5.603(c).

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

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 as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 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. 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, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the federal government.

Foster child care payment. A 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). See 24 CFR 5.603.

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gender identity. Actual or perceived gender-related characteristics.

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 24 CFR 982.610–614.)

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

HAP contract. The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). See *public housing agency*.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is 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. See *person with disabilities*.

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.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

Jurisdiction. The area in which the PHA 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 PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Living/sleeping room. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent 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 percent 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 24 CFR 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 24 CFR 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 percent of annual income.

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

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of 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, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) 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, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Notice of funding availability (NOFA). For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Overcrowded. A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Person with disabilities. *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Portability. Renting a dwelling unit with a 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.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 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.

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 HCV 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.

Qualified family (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

- 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;
- 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
- 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.

Qualified census tract. With regard to certain tax credit units, 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.

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.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

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 the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *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 voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended.

Section 214 covered programs. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 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 (42 U.S.C. 13925(a)).

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 24 CFR 982.615–982.618.)

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 24 CFR 982.602–982.605.)

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

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

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling*.

Tax credit rent. With regard to certain tax credit units, 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).

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.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. 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.

Very low-income family. A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant 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. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (984.103(b)), *welfare assistance* includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

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

There are three parts to this chapter:

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

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

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

PART I: THE PHA

1-I.A. OVERVIEW

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

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

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the Housing Authority of the City of New Brunswick for the jurisdiction of the City of New Brunswick.

The officials of a PHA are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA 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 PHA are taken through written resolutions, adopted by the board of commissioners and entered into the official records of the PHA.

The principal staff member of the PHA is the executive director (ED), hired and appointed by the board of commissioners. The executive director is directly responsible for carrying out the policies established by the board and is delegated the responsibility for hiring, training and supervising the PHA staff in order to manage the day-to-day operations of the PHA. The executive director is responsible for ensuring 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. PHA MISSION

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

PHA Policy

The PHA's mission is to assist eligible families by providing decent affordable housing as they move to achieve self-sufficiency. The PHA is committed to operate in an ethical, efficient and professional manner. The PHA will establish and maintain partner/relationships with its clients and appropriate community agencies in order to accomplish this mission.

1-I.D. THE PHA'S PROGRAMS

The following programs are included under this administrative plan:

PHA Policy

The PHA's administrative plan is applicable to the operation of the Housing Choice Voucher program.

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

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

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

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

PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

1-II.B. HCV PROGRAM BASICS

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

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

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

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

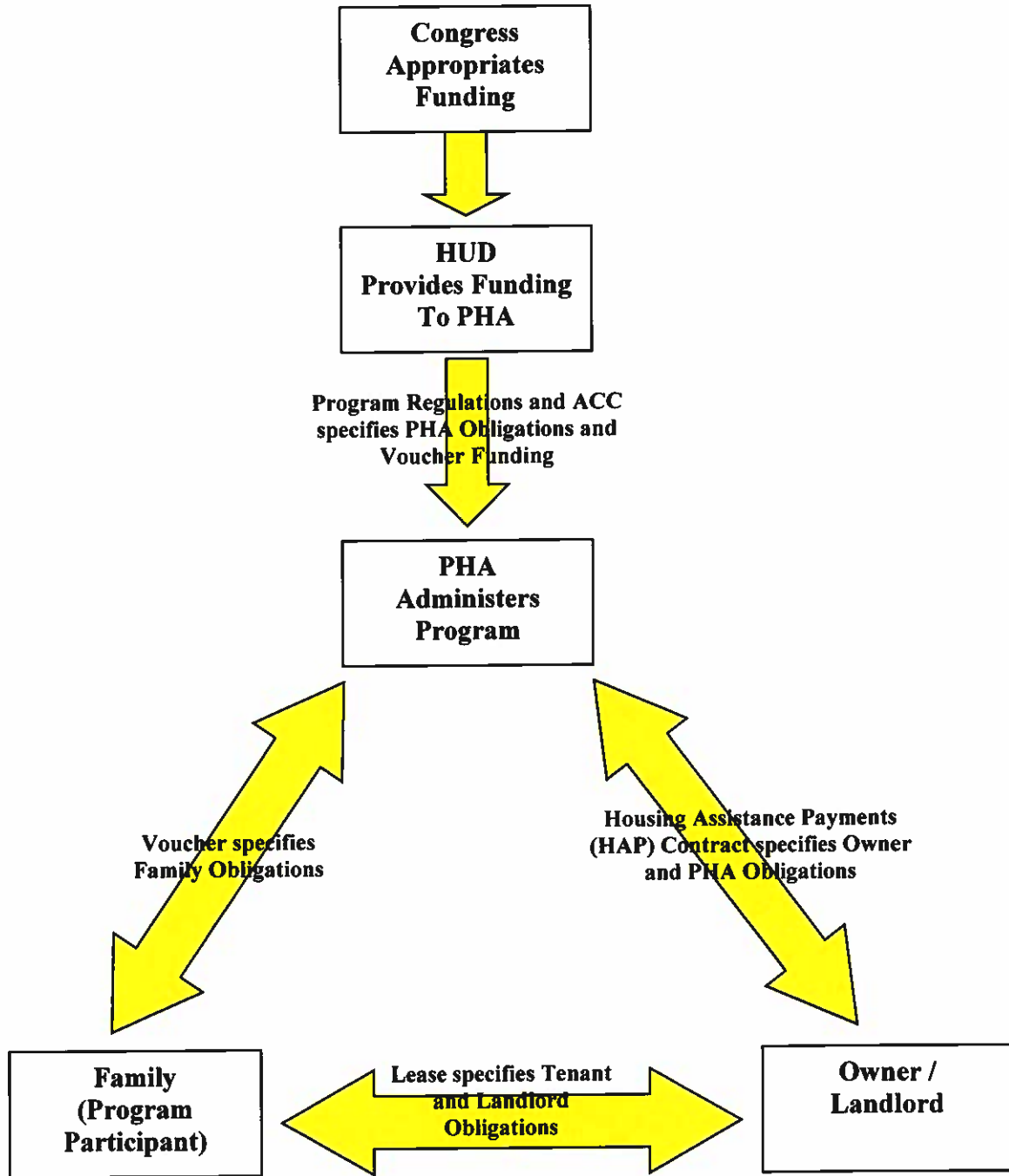
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, the PHA enters into a contractual relationship with HUD (Consolidated Annual Contributions Contract). The PHA 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 PHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

The chart on the 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 PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What Does the PHA Do?

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

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

What Does the Owner Do?

The owner has the following major responsibilities:

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

What Does the Family Do?

The family has the following responsibilities:

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

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

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

PART III: THE HCV ADMINISTRATIVE PLAN

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

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

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

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

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

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

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

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

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

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

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

Creating policies based upon HUD guidance is not mandatory, but provides a PHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA 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 PHAs should carefully think through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

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

1-III.D. UPDATING AND REVISING THE PLAN

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

PHA Policy

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

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

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

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

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2013 (VAWA)

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

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

PHA Policy

No state or local nondiscrimination laws or ordinances apply.

2-I.B. NONDISCRIMINATION

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

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”)

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

The PHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12].

PHA Policy

The PHA does not identify any additional protected classes.

The PHA will not use any of these factors to:

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

Providing Information to Families and Owners

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

Discrimination Complaints

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

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

PHA Policy

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

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

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

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

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

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

PHA Policy

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

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

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

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

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit.

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

Types of Reasonable Accommodations

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

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

2-ILC. REQUEST FOR AN ACCOMMODATION

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

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

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

PHA Policy

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

2-III.D. VERIFICATION OF DISABILITY

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

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

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

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

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the PHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the PHA will dispose of it. In place of the information, the PHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

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, Notice PIH 2010-26].

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

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

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the overall size of the PHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

PHA Policy

After a request for an accommodation is presented, the PHA will respond, in writing, within 10 business days.

If the PHA 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 PHA's operations), the PHA 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 PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA will notify the family, in writing, of its determination within 10 business days from the date of the most recent discussion or communication with the family.

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

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

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

PHA Policy

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

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

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

2-ILG. PHYSICAL ACCESSIBILITY

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

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

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

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

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-IL.H. DENIAL OR TERMINATION OF ASSISTANCE

A PHA'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)].

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

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

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (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 PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

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

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

2-III.B. ORAL INTERPRETATION

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

PHA Policy

The PHA will utilize a language line for telephone interpreter services.

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

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

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

2-III.C. WRITTEN TRANSLATION

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

PHA Policy

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

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

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

2-III.D. IMPLEMENTATION PLAN

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

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

PHA Policy

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

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

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

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the HCV program:

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

This chapter contains three parts:

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

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

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

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c); FR Notice 02/03/12; 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. *Family* as defined by HUD includes, but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

PHA Policy

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

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

Household

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

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

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

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

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

PHA Policy

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

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

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

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a 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.”

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 cohead or spouse.

PHA Policy

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

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

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

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

Spouse means the marriage partner of the head of household.

PHA Policy

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

A *cohead* 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 cohead.

PHA Policy

Minors who are emancipated under state law may be designated as a cohead.

Other adult means a family member, other than the head, spouse, or cohead, 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, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a dependent allowance as described in Chapter 6.

Joint Custody of Dependents

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

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 cohead, qualifies the family for a dependent allowance, and (2) the earned 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, FR Notice 02/03/12]

Elderly Persons

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

Near-Elderly Persons

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

Elderly Family

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

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

Persons with Disabilities

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

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

Disabled Family

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

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

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

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

PHA Policy

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

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

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

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

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

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

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

PHA Policy

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

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

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

3-I.L. ABSENT FAMILY MEMBERS

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

Definitions of Temporarily and Permanently Absent

PHA Policy

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

Absent Students

PHA Policy

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

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

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

PHA Policy

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

Absent Head, Spouse, or Cohead

PHA Policy

An employed head, spouse, or cohead 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].

PHA Policy

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

Return of Permanently Absent Family Members

PHA Policy

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

3-I.M. LIVE-IN AIDE

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

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

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

PHA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request-subject to PHA 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 PHA 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 PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

The PHA will notify the family of its decision in writing within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

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

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

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

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

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

Using Income Limits for Eligibility [24 CFR 982.201]

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

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

PHA Policy

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

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

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

PHA Policy

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

Using Income Limits for Targeting [24 CFR 982.201]

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

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

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

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

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

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

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

PHA Policy

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

Eligible Noncitizens

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

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

Ineligible Noncitizens

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

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

Mixed Families

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

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

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

PHA Policy

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

When a PHA 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 PHA. The informal hearing with the PHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16.

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

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

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

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

PHA Policy

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 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 household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

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

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

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

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/16]

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 PHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

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

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions [FR Notice 4/10/06, FR Notice 9/21/16].

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

PHA Policy

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

The individual is of legal contract age under state law.

The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of independent student.

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

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

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

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s state of legal residence

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

The individual is a graduate or professional student

The individual is married

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

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

A local educational agency homeless liaison

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director

A financial aid administrator

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

The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.

The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

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

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

Institution of Higher Education

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

Parents

PHA 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 PHA 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

PHA Policy

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

Vulnerable Youth

PHA Policy

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

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

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence

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

A local educational agency homeless liason

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director

A financial aid administrator

Determining Student Eligibility

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

PHA Policy

For any student who is subject to the 5.612 restrictions, the PHA 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 PHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the PHA will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

Determining Parental Income Eligibility

PHA 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 PHA will determine the income eligibility of the student's parents as follows:

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

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

If the student's parents are divorced or separated, the PHA 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 PHA 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 PHA 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 PHA 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 this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

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

Denial of assistance includes any of the following:

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

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

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

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

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

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

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

PHA Policy

The PHA 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 PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA, or the person who committed the crime, is no longer living in the household.

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

PHA Policy

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

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

PHA Policy

In determining reasonable cause, the PHA 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 PHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

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

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

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

Criminal Activity [24 CFR 982.553]

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

PHA 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].

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

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

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

Immediate vicinity means within a three-block radius of the premises.

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

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

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

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

- A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.

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

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

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

Per the alternative requirements listed in the *Federal Register* notice dated December 29, 2014, PHAs are no longer permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [FR Notice 12/29/14].

PHA Policy

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

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

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

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

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

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

If the family has not reimbursed 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 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 PHA personnel.

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

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

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

3-III.D. SCREENING

Screening for Eligibility

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

PHA Policy

The PHA will perform a criminal background check through local law enforcement for every adult household member.

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

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

PHA Policy

The PHA will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

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

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

Screening for Suitability as a Tenant [24 CFR 982.307]

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

PHA Policy

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

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

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

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

PHA Policy

The PHA 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 PHA will not provide any additional information to the owner, such as tenancy history or criminal history, etc.

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

Evidence [24 CFR 982.553(c)]

PHA Policy

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

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

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

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

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

PHA Policy

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

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

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

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

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

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

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

- Whether criminal charges were filed

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

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

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

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

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

Removal of a Family Member's Name from the Application

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

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

PHA Policy

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

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

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

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

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

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

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

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

PHA Policy

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

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

PHA Policy

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

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

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

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

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

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

Notification

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

PHA Policy

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

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

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