

## CHAPTER 15

### PROGRAM ADMINISTRATION

#### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in eight parts as described below:

Part I: Administrative Fee Reserve. This part describes the AHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the AHA. This part describes policies for recovery of monies that the AHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the AHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect AHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the AHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the AHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Special Housing Types. This part describes what Special Housing Types the AHA will operate.

#### **PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

The AHA must maintain an administrative fee reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a AHA fiscal year. If funds in the administrative fee reserve are not needed to cover AHA administrative expenses, the AHA may use these funds for other housing purposes permitted by Federal, State and local law.

If the AHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the administrative fee reserve, and may direct the AHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the AHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval.

Expenditures from the administrative fee or other AHA reserves will be made in accordance with all applicable Federal requirements and the AHA procurement policy. The Board of Commissioners through the AHA budget process must approve all expenditure line items. The AHA's Board of Commissioners must approve contracts in excess of \$250,000.

## **PART II: SETTING PROGRAM STANDARDS AND SCHEDULES**

### **15-II.A. OVERVIEW**

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the AHA to adapt the program to local conditions. This part discusses how the AHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

Copies of the payment standard and utility allowance schedules are available for review in the AHA's offices during normal business hours.

The AHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

### **15-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]**

The payment standard sets the maximum subsidy payment a family can receive from the AHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. Alameda is one FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The AHA has established a payment standard schedule that establishes payment standard amounts for the AHA's jurisdiction, and for each unit size. For each unit size, the AHA has established a single payment standard amount for the whole FMR area.

Unless HUD grants an exception, the AHA is required to establish a payment standard within a “basic range” established by HUD – between 90 and 110 percent of the published FMR for each unit size.

### **Updating Payment Standards**

When HUD updates its FMRs, the AHA will update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the AHA to make further adjustments if it determines that rent burdens for assisted families in the AHA’s jurisdiction are unacceptably high 24 CFR 982.503(g)].

The AHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published. In addition to ensuring the payment standards do not exceed the success rate payment standard approved by HUD. The AHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability:** The AHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The AHA will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the AHA will consider increasing the payment standard. In evaluating rent burdens, the AHA will not include families renting a larger unit than their family unit size.

**Quality of Units Selected:** The AHA will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

**Changes in Rent to Owner:** The AHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

**Unit Availability:** The AHA will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate:** The AHA will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Payment standards for new contracts will go into effect when a family moves. For an offer of new lease, the higher of the old payment standard or the current payment standard will be used if the family composition remains the same. For ongoing contracts, if the payment standard increases, the new payment standard will be effective at the next annual reexamination. If the payment standard

decreases, the new payment standard will be implemented at the time at the time of move (transfer) or at the time of an annual that changes the payment standard due to a change in family composition.

### **Exception Payment Standards [982.503(c)]**

The AHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

### **Unit-by-Unit Exceptions [24 CFR 982.505]**

Unit-by-unit exceptions to the AHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the AHA's payment standard schedule.

When needed as a reasonable accommodation, the AHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size. The AHA must maintain documentation that the unit has the feature(s) required to meet the needs of the person with disabilities.

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, the AHA must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income;
- and
- The rent for the unit is reasonable.

### **"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the AHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the AHA to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, the AHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The AHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and

- The AHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the AHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the AHA's jurisdiction within the FMR area.

#### **Decreases in the Payment Standard Below the Basic Range [24 CFR 982.503(d)]**

The AHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

#### **15-II.C. UTILITY ALLOWANCES [24 CFR 982.517]**

An AHA-established utility allowance schedule is used in determining family share and AHA subsidy. The AHA will maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the AHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the AHA will classify utilities and other housing services according to the following categories:

- Gas heating;
- Electric heating;
- Gas cooking;
- Electric cooking;
- Gas water heating;
- Electric water heating;
- Water and sewer;
- Trash collection and recycling;
- Other electric;
- Cost of tenant-supplied refrigerator;
- Cost of tenant-supplied range.

The cost of each utility and housing service will be stated separately by unit size and type. Chapter 16 of the *HCV Guidebook* provides detailed guidance to the AHA about establishing utility allowance schedules.

## **Air Conditioning**

An allowance for air conditioning will be provided when the majority of housing units in the market have central air conditioning or are wired for tenant-installed air conditioners. Due to the negligible number of housing units with air conditioning, the AHA has not included an allowance for air conditioning in its schedule.

## **Reasonable Accommodation**

The AHA will approve a utility allowance amount higher than shown on the AHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the AHA will approve an allowance for air-conditioning, even if the AHA has determined that an allowance for air-conditioning generally is not needed or the AHA will approve the use of the utility allowance for the actual unit leased if the family is in a unit higher than their voucher size (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

## **Utility Allowance Revisions**

The AHA will review its schedule of utility allowances at least annually, and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised. The AHA will maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

## **15-II.D. CALIFORNIA UTILITY ALLOWANCE CALCULATOR FOR ENERGY EFFICIENT PROJECTS RECEIVING LOW INCOME HOUSING TAX CREDITS**

Under the Housing Choice Voucher program, the AHA recognizes and adopts the use of project specific utility allowances that have been approved for use in qualified Low Income Housing Tax Credit (LIHTC) projects, provided that the utility allowances for the LIHTC project are:

- (i) Developed pursuant to regulations prescribed by the Internal Revenue Service (IRS) and requirements set by the California Tax Credit Allocation Committee (CTCAC) for the LIHTC program;
- (ii) Calculated using the California Utility Allowance Calculator (CUAC) or other models recognized by the CTCAC;
- (iii) Approved by CTCAC for use in affordable housing projects receiving Tax Credit project; and
- (iv) Reviewed and updated pursuant to CTCAC requirements and compliance procedures to reflect changes in energy tariffs.

## **Background**

Utility allowances for the HCV program and LIHTC program are established through different processes. The result is that the utility allowances for HCV participants

substantially vary from the utility allowances approved by CTCAC for non-voucher units even though the building characteristics for the residential units are substantially the same.

Additionally, the methods used to set utility allowances for the HCV program do not consider new construction standards and practices or the above-code energy efficiency investments commonly made by developers of CTCAC-funded Tax Credit projects. As a result, the utility allowances set by public housing authorities do not accurately reflect the lower energy consumption and costs associated with LIHTC projects. It is commonly understood among affordable housing organizations that the overstatement of energy consumption and costs adversely affects the property's ability to cover added investment costs for high efficiency measures and may also affect the underlying cash flow and financial stability of the property.

This disparity was formally recognized by the IRS and resulted in an amendment to its regulations governing utility allowances, § 1.42-10. On July 29, 2008, the IRS issued a Final Notice permitting use of alternative approaches for estimating tenant utility costs including the use of utility allowance estimates set by state housing finance agencies, use of HUD's Utility Schedule Model, or use of an energy consumption model.

Following issuance of the IRS rule, the CTCAC authorized use of an energy consumption model developed by the California Energy Commission. The model, known as the California Utility Allowance Calculator (CUAC), is widely used by tax credit properties. The utility cost estimates calculated through this model more accurately reflect utility consumption than the standard allowances used by AHA for the HCV Program.

### **Justification**

The CUAC used in California for Tax Credit projects provides a well documented, objective, and sound analytical basis for estimating tenant utility costs and setting utility allowances in LIHTC properties.

The process requires the use of energy professionals in making utility estimates using the CUAC model, and has sufficient safeguards and checks in place to ensure that utility allowances are properly calculated and reasonable. Compliance procedures established by CTCAC will also ensure that utility allowances, once set under the LIHTC program, will be reviewed on an ongoing basis and updated to reflect changes in utility costs.

Adopting the utility allowances approved by the CTCAC for properties using the CUAC will not result in additional AHA project administration costs.

### **Review of Process for Setting Utility Allowances Under Low Income Housing Tax Credit Program and Potential Utilization for Housing Choice Vouchers Used in Qualified Tax Credit Properties**

Under the LIHTC program, applicants for LIHTCs must estimate the monthly income and expenses for proposed projects. As part of the calculation, applicants need to provide an estimate of tenant utility costs. A utility allowance is set based on what a reasonable

energy consuming household consumes, which is the same standard used for HUD programs.

In tax credit projects, the gross rent for the unit is reduced by the utility allowance. This is consistent with the approach used in HUD programs to determine the amount of rent the tenant pays the property owner.

Until recently, the most common source of the utility cost estimates has been Public Housing Authority (PHA) utility allowance schedules. This changed in 2008 with the issuance of the amended regulation by the IRS. The underlying reason for amending the IRS' regulation is that PHA utility allowances based on older buildings are inaccurate and overstate utility costs for tax credit properties built to higher energy efficiency standards and with lower energy consumption.

In 2009, CTCAC authorized use of the California Utility Allowance Calculator, or CUAC in developing utility cost estimates for LIHTC projects. The CUAC was developed by the California Energy Commission in partnership with the affordable housing community to create a more accurate tool for estimating tenants' utility costs.

Since utility allowances for the HCV program are set independently from the LIHTC program, when a household using a voucher moves into a Tax Credit project, a different utility allowance is used, which results in different utility allowances being applied to units in the same building with the same characteristics affecting energy consumption. To correct this disparity, the AHA has sought and obtained HUD approval to use the utility allowances approved for the LIHTC program.

### **Assessment of California Utility Allowance Calculator (CUAC) Model**

The California Utility Allowance Calculator (CUAC) allows energy consultants, working for affordable housing developers, to establish a more accurate estimate of what tenants will pay for utilities, taking into account the energy affecting features of the proposed building, the photovoltaic (PV) system designed for it, and the applicable tariff/utility rate. The CUAC may be used with:

1. New construction projects in the design phase (brand new, never previously used buildings);
2. Newly constructed projects placed in service during or after 2009 that meet Title 24, Part 6 standards (2008 edition); and on a case-by-case basis subject to discretion of CTAC's Executive Director
3. Rehabilitation or adaptive reuse projects that involve tearing the building(s) down to the bare framing, rafters and foundation and then rebuilding it to Title 24, Part 6 standards.

Appropriate use of the CUAC requires verifying what is actually built, as opposed to what had been proposed, so that a project is accurately modeled using approved California Energy Commission approved software.

- Energy analysts using the CUAC investigate and confirm the relevant energy efficiency measures which are actually used in construction of the project, once the project has been completed, and model the units and building(s) as built. These relevant energy efficiency measures include any components, materials, systems, etc. that impact the building's energy efficiency, including but not limited to the building envelope, heating systems, cooling systems, domestic hot water systems, and installed lighting systems. Energy analysts shall also confirm that appliances comply with the applicable California Appliance Efficiency Regulations, Title 20.

### **Assessment of Owner/Developer Requirements**

In order to qualify for the use of a project-specific utility allowance, developers must meet certain requirements and must be awarded LIHTCs. These requirements apply whether the applicant is seeking, or has already been awarded, competitive 9% tax credits, or credits used in conjunction with tax exempt bond financing, or "ARRA Funding" Tax Credit Exchange Program (Section 1602) funds or Tax Credit Assistance Program (TCAP) funds.

All CUAC estimates will be completed by an independent third party and will be at the expense of the developer. The CTCAC requires that the consultant be a California Association of Building Energy Consultants (CABEC) Certified Energy Plans Examiner (CEPE) and either a certified Home Energy Rating System (HERS) Rater or a California licensed mechanical engineer or electrical engineer. A list of CEPEs with current residential certifications is available at:

<http://www.cabec.org/ceperosterall.php>.

All CUAC estimates will include a report, signed by the qualified professional energy analyst (as defined in TCAC Regulation Section 10322(h)(20)), certifying the following:

Date the CUAC estimate was prepared and the name of project the estimate was prepared for.

- Name, address and phone number of the analyst who prepared and certified to the accuracy of the CUAC estimate. (NOTE: The preparer and certifying analyst must be the same person).
- Proof of the energy analyst's qualifications to use the CUAC, including a current California Association of Building Energy Consultant's (CABEC) Certified Energy Plans Examiner (CEPE) certification number, and the analyst's California engineering license number or California Home Energy Rating Systems (HERS) certification number.
- A statement that the analyst and the owner of the project, the project applicant, and the project's principals (general partners, members, etc.), are not related parties as defined by TCAC Regulation 10302(gg) and the Internal Revenue Code section 267(b) and 707(b).
- A statement that CUAC estimate is based solely on the professional building energy modeling and analysis completed by the qualified professional building analyst who signed the CUAC estimate.
- A copy of the completed CARE tariff eligibility analysis done as required by the CUAC User's Guide (if applicable).

- A copy of the California Energy Commission's CF-1R compliance document for the project.

### **Additional Requirements for Projects Recently Placed In Service**

Energy analysts who are submitting a CUAC estimate for a newly completed project built to the 2005 or later standards must confirm the energy efficiency measures of the project's units and buildings. The energy analyst will confirm the data used in completing the CUAC estimate is accurate, including all relevant energy efficiency measures. If unable to confirm the energy efficiency measures actually used in the completed units and building(s), the analyst will use conservative default assumptions needed to meet the minimum requirements under the appropriate standards.

The analyst also must identify the utility providers, confirm that the appropriate tariff was used in the CUAC estimate, confirm building orientation, and determine the building's unit mix, apartment features and unit floor plan layout. This process will be done through direct observation (including field testing or sampling at a minimum rate of 1:7 units), official documentation, or qualified third-party resources.

All CUAC estimates will include a report, certifying to all of the items listed above, as well as the following additional items:

- Explanation of any testing or sampling done to confirm the constructed units and/or building(s) features.
- A list of all third-party resources used to confirm the constructed buildings features, including copies of the building permits and the name and phone number of any HERS rater(s) who conducted review(s) of the project's units and /or building(s).
- Copies of any documentation relied upon to confirm the energy efficiency measures used in the modeling of the constructed units and/or building(s).
- Copies of any completed residential compliance forms (CF-1R, CF-4R, CF-6R, etc.) for the project's units and/or building(s) that were completed at the design phase and upon final construction.
- A list and justification of any conservative default assumptions (Title 24, Part 6 Standards) that were used by the energy analyst in the event the energy analyst was unable to independently confirm the building(s) energy efficiency measures.

### **CUAC Schedule**

For a Tax Credit project, and most other affordable housing projects, the CUAC estimate will need to be produced or reproduced at three points in the life of a project.

1. At the point of initial application where the CUAC utility allowance is crucial to the underwriting of a project. This should be the "draft" version of the CUAC utility allowance.
2. When the project begins lease-up, so that tenants are appropriately charged for rent. This should be the "final" locked-in-place version of the CUAC utility allowance and represent the project "as built" as opposed to "as proposed." This

or a later "annual update" version of the utility allowance is also the utility allowance that should be sent to the CTCAC as part of any placed-in-service package.

3. The "final" version of the CUAC should be updated annually throughout the compliance period. This updating simply involves having the energy analyst reproduce the utility allowance using the latest version of the CUAC lookup tables, which will contain the most up-to-date version of the utility company rates. This will bring the utility allowance up-to-date.

### **Updating Project-Specific Utility Allowance**

The owner/developer is required to update the schedule of utility allowances at least annually, and must revise the schedule if there has been a change of 10 percent or more in any utility tariff/rate since the last time the allowance for that utility was revised.

The CUAC update shall be conducted no later than the project's anniversary of its earliest Placed-In-Service date.

Under the proposal, the owner/developer must provide the AHA the information supporting its annual review of the utility allowance and any revisions made in its utility allowance schedule. The AHA shall retain this information with all other utility allowance update data.

## **PART III: INFORMAL REVIEWS AND HEARINGS**

### **15-III.A. OVERVIEW**

When the AHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing.

PHAs are required to include in their administrative plans, informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d)(12) and (13)].

### **15-III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

#### **Decisions Subject to Informal Review**

The AHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the AHA waiting list

- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denying assistance based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking. (See Section 3-III.G)

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the AHA
- General policy issues or class grievances
- A determination of the family unit size under the AHA subsidy standards
- An AHA determination not to grant approval of the tenancy
- An AHA determination that the unit is not in compliance with the HQS
- An AHA determination that the unit is not in accordance with the HQS due to family size or composition

The AHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the AHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

#### **Notice to the Applicant [24 CFR 982.554(a)]**

The AHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the AHA decision, and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

#### **Scheduling an Informal Review**

A request for an informal review must be made in writing and delivered to the AHA either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the AHA's denial of assistance.

The AHA must schedule and send written notice of the informal review within 14 calendar days of the family's request.

#### **Informal Review Procedures [24 CFR 982.554(b)]**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the AHA.

The person conducting the review will make a recommendation to the AHA, but the AHA is responsible for making the final decision as to whether assistance should be granted or denied.

### **Informal Review Decision [24 CFR 982.554(b)]**

The AHA must notify the applicant of the AHA's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the AHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the Notice.

The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

The validity of the evidence. The AHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the AHA will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, the AHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The AHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 14 calendar days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing. Informal hearings may be held in-person or remotely. If remote hearings are scheduled, AHA will ensure equal opportunity and nondiscrimination for individuals with disabilities and limited English proficient (LEP) persons under Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964, and the Fair Housing Act.

AHAs will make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the hearing process. This obligation is in addition to the obligation to ensure effective communication under Section 504 and the ADA.

### **15-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an informal hearing for certain AHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the AHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the AHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and AHA policies.

The AHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract

- Refusing to process or provide assistance under portability procedures

### **Decisions Subject to Informal Hearing**

Circumstances for which the AHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the AHA utility allowance schedule
- A determination of the family unit size under the AHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under AHA policy and HUD rules
- A determination to terminate a family's Family Self-Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]
- A determination to terminate assistance based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.
- A determination to deny a request for reasonable accommodation.

The AHA also will offer participants the opportunity for an informal hearing when the AHA determines not to approve an extension of or suspends a voucher term

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the AHA
- General policy issues or class grievances
- Establishment of the AHA schedule of utility allowances for families in the program
- An AHA determination not to approve a unit or tenancy
- An AHA determination that a unit selected by the applicant is not in compliance with the HQS
- An AHA determination that the unit is not in accordance with HQS because of family size
- A determination by the AHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

### **Informal Hearing Procedures**

#### ***Notice to the Family* [24 CFR 982.555(c)]**

When the AHA makes a decision that is subject to informal hearing procedures, the AHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the AHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the AHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

In cases where the AHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the AHA.

- A brief statement of the reasons for the decision including the regulatory reference.

- The date the proposed action will take place.

- A statement of the family's right to an explanation of the basis for the AHA's decision.

- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.

- A deadline for the family to request the informal hearing.

- To whom the hearing request should be addressed.

- A copy of the AHA's hearing procedures.

### ***Scheduling an Informal Hearing [24 CFR 982.555(d)]***

When an informal hearing is required, the AHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

A request for an informal hearing must be made in writing and delivered to the AHA either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the AHA's decision or notice to terminate assistance.

The AHA must schedule and send written notice of the informal hearing to the family within 14 calendar days of the family's request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the AHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the AHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The AHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

***Pre-Hearing Right to Discovery [24 CFR 982.555(e)]***

Participants and the AHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any AHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the AHA does not make the document available for examination on request of the family, the AHA may not rely on the document at the hearing.

The AHA hearing procedures may provide that the AHA must be given the opportunity to examine at the AHA offices before the hearing, any family documents that are directly relevant to the hearing. The AHA must be allowed to copy any such document at the AHA's expense. If the family does not make the document available for examination on request of the AHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

The family will be allowed to copy any documents related to the hearing at a cost of \$0.10 per page. The family must request discovery of AHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date

The AHA must be given an opportunity to examine at the AHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, the AHA may request a copy of all documents that the participant intends to present or utilize at the hearing. If requested, the participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

***Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]***

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Recording of the Hearing***

All informal hearings will be recorded by audiotape. The AHA will not provide a transcript of an audio taped hearing. The tape will be retained for a period of 90 days from the date of the "Notice of Final Decision" at which time the tape may be destroyed.

***Informal Hearing Officer [24 CFR 982.555(e)(4)]***

Informal hearings will be conducted by a person or persons approved by the AHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

***Attendance at the Informal Hearing***

Hearings may be attended by a hearing officer and the following applicable persons:

An AHA representative and any witnesses for the AHA

Other professionals deemed necessary by the AHA such as translators or security personnel

The participant and any witnesses for the participant

The participant's counsel or other representative

Any other person approved by the AHA as a reasonable accommodation for a person with a disability

### **Conduct at Hearings**

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the AHA's hearing procedures [24 CFR 982.555(4)(ii)].

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

### **Evidence [24 CFR 982.555(e)(5)]**

The AHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing, which is relevant to the case, for example, a letter written to the AHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the AHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the AHA will take effect.

### **Hearing Officer's Decision [24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family, generally within 14 calendar days.

In rendering a decision, the hearing officer will consider the following matters:

**AHA Notice to the Family:** The hearing officer will determine if the reasons for the AHA's decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if the AHA and the family were given the opportunity to examine any relevant documents in accordance with AHA policy.

**AHA Evidence to Support the AHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the AHA's conclusion.

**Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and AHA policies. If the grounds for termination are not specified in the regulations or in compliance with AHA policies, then the decision of the AHA will be overturned.

The hearing officer will issue a written decision promptly to the family and the AHA, generally no later than 14 calendar days after the hearing. The report will contain the following information:

#### **Hearing information:**

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the AHA representative; and
- Name of family representative (if any).

**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as

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

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the AHA's decision.

**Order:** The hearing report will include a statement of whether the AHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the AHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the AHA to restore the participant's program status.

#### ***AHA Notice of Final Decision [24 CFR 982.555(f)]***

The AHA is not bound by the decision of the hearing officer for matters in which the AHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the AHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the AHA must promptly notify the family of the determination and the reason for the determination.

The AHA will mail a "Notice of Final Decision" including the hearing officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the AHA's file.

Once the "Notice of Final Decision" has been sent, the family's time to obtain a judicial review of that decision through administrative mandamus is limited to 90 days after service of the "Notice of Final Decision."

#### **15-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the AHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the AHA informal hearing process, does not preclude the family from exercising the

right, that may otherwise be available, to seek redress directly through judicial procedures.

### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for non-citizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief and the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the AHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

### **USCIS Appeal Process [24 CFR 5.514(e)]**

When the AHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the AHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the AHA with a copy of the written request for appeal and the proof of mailing.

The AHA will notify the family in writing of the results of the USCIS secondary verification within 14 calendar days of receiving the results.

The family must provide the AHA with a copy of the written request for appeal and proof of mailing within 14 calendar days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the AHA, of its decision. When the USCIS notifies the AHA of the decision, the AHA must notify the family of its right to request an informal hearing.

The AHA will send written notice to the family of its right to request an informal hearing within 14 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

## **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the AHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the AHA notice of denial or termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 15-III.C.

The informal hearing procedures for applicant families are described below.

### ***Informal Hearing Officer***

The AHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the AHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing at a cost of \$0.10 per page copy. The family must request discovery of AHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the AHA, and to confront and cross-examine all witnesses on whose testimony or information the AHA relies.

### ***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the AHA, as may be agreed upon by the two parties.

### ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. The AHA may, but is not required to provide a transcript of the hearing.

The AHA will not provide a transcript of an audio taped hearing.

### ***Hearing Decision***

The AHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

### **Retention of Documents [24 CFR 5.514(h)]**

The AHA must retain for a minimum of 5 years the following documents that may have been submitted to the AHA by the family, or provided to the AHA as part of the USCIS appeal or the AHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for an USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

## **PART IV: OWNER OR FAMILY DEBTS TO THE AHA**

### **15-IV.A. OVERVIEW**

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the AHA [24 CFR 982.54]. This part describes the AHA's policies for recovery of monies that have been overpaid on behalf of families, or to owners.

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the AHA holds the owner or participant liable to return any overpayments to the AHA.

The AHA will enter into repayment agreements with participants in accordance with the policies contained in this part as a means to recover monies owed.

When an owner or participant refuses to repay monies owed to the AHA, the AHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit

### **15-IV.B. REPAYMENT POLICY**

#### **Owner Debts to the AHA**

Any amount due to the AHA by an owner will be deducted from the next HAP payment by the amount owed. If the amount owed is more than the HAP payment, the balance is due within 30 days.

If the owner is not entitled to future HAP payments, the entire amount owed must be repaid by the owner within 30 days of the AHA determination of the debt.

If the owner refuses to repay the debt, the AHA will ban the owner from future participation in the program and pursue other modes of collection.

### **Family Debts to the AHA**

Any amount due to the AHA by an HCV participant must be repaid by the family. If the family is unable to repay the debt within 30 days, the AHA may offer to enter into a repayment agreement in accordance with the policies below.

The family must be in good standing with the AHA and the debt amount must be \$3,000 or less. To be in good standing, a participant must not have any other outstanding debts related to an existing repayment agreement or be under the termination process for another program violation. If the amount owed is greater than \$3,000 a repayment agreement may only be entered into with the Executive Director's approval. If such an agreement is not approved, then the participant's assistance will be terminated.

If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, the AHA will terminate the assistance upon notification to the family and pursue other modes of collection.

### **Repayment Agreement [24 CFR 792.103]**

The term *repayment agreement* refers to a formal document signed by a tenant or owner and provided to the AHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

### **Repayment Agreement Guidelines**

#### ***Down Payment Requirement***

Prior to the execution of a repayment agreement, the owner or family must pay 10 percent of the balance owed to the AHA.

#### ***Payment Thresholds***

The debt amount must be \$3,000 or less. If the amount owed is greater than \$3,000 a repayment agreement may only be entered into with the Executive Director's approval. If such an agreement is not approved, then the participant's assistance will be terminated.

Amounts between \$2,001 to \$3,000 must be repaid within 36 months.

Amounts between \$901 and \$2,000 must be repaid within 24 months.

Amounts between \$451 and \$900 must be repaid within 12 months.

Amounts under \$450 must be repaid within 6 months.

All repayment agreements will require a minimum monthly payment of at least \$25.

### ***Execution of the Agreement***

The head of household and spouse/cohead (if applicable) must sign the repayment agreement.

### ***Due Dates***

All payments are due by the close of business on the 1<sup>st</sup> business day of the month.

### ***Non-Payment***

A late or partial payment is considered a missed payment. The AHA will issue a notice of termination to participants who miss more than one monthly installment under the payment agreement within a 12-month period, the balance of the debt must be paid in full or the participant family will be terminated from the HCV program. The Executive Director must approve any exceptions to these guidelines.

Families, whose assistance is terminated, have the opportunity to request an informal hearing.

### ***No Offer of Repayment Agreement***

The AHA will not enter into a repayment agreement if there is already a repayment agreement in place with the family.

## **PART V: RECORD KEEPING**

### **15-V.A. OVERVIEW**

The AHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the AHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### **15-V.B. RECORD RETENTION [24 CFR 982.158]**

During the term of each assisted lease, and for at least three years thereafter, the AHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the AHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;

- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting AHA budget and financial statements for the program;
- Records to document the basis for AHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

The AHA will retain any documents relating to the family's participation in the Housing Choice Voucher Program, including, but not limited to, written notice from the owner of serious or repeated lease violations, police reports, neighbor complaints or other third party information. These documents will be retained in the file for the term of the family's participation in the program, and for at least three years thereafter. Electronic storage of the required documents, in a system such as Laserfiche, will suffice for the records retention requirement. The originals do not also need to be retained.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 15-III.D., Retention of Documents.

#### **15-V.C. RECORDS MANAGEMENT**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

All applicant and participant information will be kept in a secure location and access will be limited to authorized AHA staff.

AHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

#### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the AHA may release the information collected.

#### **Upfront Income Verification (UIV) Records**

The AHA, which accesses UIV data through HUD's Enterprise Income Verification (EIV) System, are required to adopt and follow specific security procedures to ensure that all

EIV data is protected in accordance with Federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document *Enterprise Income Verification (EIV) System Security Procedures for Upfront Income Verification Data*.

Prior to utilizing HUD's EIV system, the AHA will adopt and implement EIV security procedures required by HUD.

### **Criminal Records**

The AHA may only disclose the criminal conviction records which the AHA receives from a law enforcement agency to officers or employees of the AHA, or to authorized representatives of the AHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The AHA must establish and implement a system of records management that ensures that any criminal record received by the AHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the AHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The AHA must establish and implement a system of records management that ensures that any sex offender registration information received by the AHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the AHA action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information, or is obtained by AHA other than under 24 CFR 5.905.

### **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. The AHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the AHA receives a verification document that provides such information, the AHA should not place this information in the tenant file. The AHA should destroy the document.

## **PART VI: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

### **15-VI.A. OVERVIEW**

The AHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the AHA is subject to.

### **15-VI.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]**

The AHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

The AHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

#### **15-VI.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the AHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the AHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the AHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the AHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the AHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the AHA is not providing such a report.

### **PART VII: REPORTING REQUIREMENTS OF VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)**

#### **15-VII.A. NOTIFICATION TO PARTICIPANTS [Pub. L. 113-4]**

VAWA requires the AHA to notify housing choice voucher participants of their rights under this law, including their right to confidentiality and the limits thereof. The AHA will provide all participants with notification of their protections and rights under VAWA with any AHA notification of eviction or terminations of assistance and during the annual recertification or lease renewal process.

#### **15-VII.B. NOTIFICATION TO APPLICANTS**

The AHA will provide all applicants with notification of their protections and rights under VAWA at the time the individual is provided assistance or admission and at the time the applicant is denied assistance or admission. The notice also will inform each applicant of AHA confidentiality requirements.

#### **15-VII.C. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 113-4]**

VAWA requires the AHAs to notify owners and managers of their rights and responsibilities under this law. HUD encourages PHAs to identify opportunities to

provide notice and/or training to owners participating in the HCV program of their rights and obligations under VAWA. The AHA will inform property owners and managers of their screening and termination responsibilities related to VAWA. The AHA will utilize any or all of the following means to notify owners of their VAWA responsibilities:

As appropriate, in day to day interactions with owners and managers.

Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.

Signs in the AHA lobby and/or mass mailings which include model VAWA certification forms.

## **PART VIII: SPECIAL HOUSING TYPES [24 CFR 982 Subpart M]**

### **15-VIII.A. OVERVIEW**

Subpart M of 24 CFR 982 allows for the operation of Special Housing Types. These include: Single Room Occupancy (SRO), Congregate Housing, Group Home, Shared Housing, Cooperative, Manufactured Home, Manufactured Home Space Rental, and Homeownership Option.

The AHA will allow Shared Housing in cases where it expands the housing choice for voucher holders. All regulations at 24 CFR 982.615 through 982.618 must be met in order for Shared Housing to be approved. These include:

- The resident owner may not be related to the assisted family by blood or marriage.
- An approved live-in aide may reside with the family.
- The other persons in the unit (a house or an apartment) may be assisted or not assisted under the tenant-based program.
- There is a separate HAP contract and lease for each assisted family.
- The pro-rata portion of the rent must be reasonable.
- The entire unit, including the portion of the unit available for use by the assisted family under its lease, must meet housing quality standards.
- The facilities available for use under the lease for the assisted family must include a living room, sanitary facilities, and food preparation and refuse disposal facilities.
- The entire unit must provide adequate space and security for all residents.

- Each unit must contain private space for each assisted family which must contain at least one bedroom for each two persons in the family.