



Housing Authority
of the
City of Alameda

PHONE: (510) 747-4300
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TTY/TRS: 711

701 Atlantic Avenue • Alameda, California 94501-2161

AGENDA **REGULAR MEETING OF THE BOARD OF COMMISSIONERS**

DATE & TIME **Wednesday, June 21, 2023 - 6:30 PM**

LOCATION

Independence Plaza, 703 Atlantic Avenue, Alameda - Ruth Rambeau Memorial Community Room

PUBLIC PARTICIPATION Public access to this meeting is available as follows:

Join Zoom Meeting:

<https://us06web.zoom.us/j/83939527392?pwd=QIFkTm04OUlkRU5JVIZOcURuUldBdz09>

Meeting ID: 839 3952 7392

Passcode: 411773

Persons wishing to address the Board of Commissioners are asked to submit comments for the public speaking portion of the Agenda as follows:

- Send an email with your comment(s) to jpolar@alamedahsg.org and vcooper@alamedahsg.org prior to or during the Board of Commissioners meeting
- Call and leave a message at (510) 871-7435.

When addressing the Board, on agenda items or business introduced by Commissioners, members of the public may speak for a maximum of three minutes per agenda item when the subject is before the Board.

Persons in need of special assistance to participate in the meetings of the Housing Authority of the City of Alameda Board of Commissioners, please contact (510) 747-4325 (voice), TTY/TRS: 711, or jpolar@alamedahsg.org. Notification 48 hours prior to the meeting will enable the Housing Authority of the City of Alameda Board of Commissioners to make reasonable arrangements to ensure accessibility or language assistance.

PLEDGE OF ALLEGIANCE

1. **ROLL CALL**
2. **AB2449 COMPLIANCE** - The Chair will confirm that there are 4 members in the



same, properly noticed meeting room within the jurisdiction of the City of Alameda. Each board member who is accessing the meeting remotely must disclose verbally whether they are able to be remote under AB2449: (1) just cause (max. 2 per year), or (2) emergency circumstances.” For Emergency Circumstances, the request must be approved by a majority vote of the Board of Commissioners for the emergency circumstances to be used as a justification to participate remotely. Remote Commissioners must provide a general description of the circumstances relating to need to appear remotely at the given meeting. Commissioner must also publicly disclose at the meeting, prior to any action, whether any other individuals 18 years or older are present in the room with the member at the remote location, and the general nature of the member’s relationship with such individuals. Note: A Commissioner cannot participate in meetings of the Board of Commissioners solely by teleconference from a remote location for a period of more than 3 consecutive months or 20% of the regular meetings for AHA within a calendar year, or more than 2 meetings if the Board of Commissioners regularly meets fewer than 10 times per calendar year.

3. COMMISSIONER RECUSALS
4. Public Comment (Non-Agenda)
5. Closed Session - 6:30 p.m. - Adjournment to Closed Session to Consider:
 - 5.A. Conference with Legal Counsel – Existing Litigation (subdivision (d)(1) of Government Code Section 54956.9)
Name of Case: Housing Authority of the City of Alameda v. Kathleen Moore (Alameda County Superior Court Case No. 22CV008223)
 - 5.B. Conference with Legal Counsel – Existing Litigation (subdivision (d)(1) of Government Code Section 54956.9)
Name of Case: Yolanda Holt v. Housing Authority of the City of Alameda, et al. (Alameda County Superior Court Case No. RG21107068)
 - 5.C. Conference with Legal Counsel – Existing Litigation (subdivision (d)(1) of Government Code Section 54956.9)
Name of Case: Donald and Tina Birks v. Joann Harris and AHA Esperanza (Alameda County Superior Court Case No. 23CV033841) (unlimited jx)
 - 5.D. Conference with Legal Counsel – Existing Litigation (subdivision (d)(1) of Government Code Section 54956.9)
Name of Case: Donald and Tina Birks v. John Stewart Company, et al. (Alameda County Superior Court Case No. 23SC028412)(small claims)
6. Adjournment of Closed Session
7. RECONVENE REGULAR MEETING
8. Announcement of Action Taken in Closed Session, if any.
9. Public Comment (Non-Agenda)
10. CONSENT CALENDER
Consent Calendar items are considered routine and will be approved or accepted by one motion unless a request for removal for discussion or



- explanation is received from the Board of Commissioners or a member of the public.
- 10.A. Approve Minutes of the Board of Commissioners Meeting held May 17, 2023. **Page 5**
 - 10.B. Accept the Monthly Development Report for Rosefield Village. **Page 13**
 - 10.C. Accept the Monthly Overview Report for the Housing Programs Department. **Page 16**
 - 10.D. Approve a one-time pilot to allow the cash out of accrued leave during calendar year 2024. **Page 19**
 - 10.E. Approve transfer of up to \$1,000,000 from MTW HAP reserves to cover the operating deficit incurred by the Housing Programs Department for Fiscal Year 2023. **Page 25**
 - 10.F. Approve the Seventh Amendment to the Consultant Services Agreement dated 4/15/15 between Island City Development and the Housing Authority of the City of Alameda. **Page 27**
 - 10.G. Adopt of a uniform standard for housing inspections standards for all Housing Authority of the City of Alameda (AHA) funded or AHA owned or affiliate-owned housing units irrespective of funding source. **Page 31**
 11. AGENDA
 - 11.A. Adopt Resolution regarding Application for and Implementation of Faircloth to RAD program for Independence Plaza to Authorize the Executive Director or designee to execute all steps necessary to apply for, negotiate and execute all documents and implement all activities necessary to apply for Faircloth to RAD conversion and related activities in order to proceed with the recapitalization of Independence Plaza and budget up to \$250,000 for due diligence, and other related activities. **Page 33**
 - 11.B. Approve changes to the Administrative Plan to implement the approved MTW activities and new stability vouchers effective July 1, 2023. **Page 37**
 - 11.C. Approve a Predevelopment Loan NTE \$4 million from Capital Impact for The Poplar (2615 Eagle Avenue) and Authorize the Executive Director to negotiate and Execute all Loan Documents. **Page 456**
 - 11.D. Authorize the Executive Director To Fund North Housing Master Plan Costs of \$4,000,000 with Short to Midterm Use of Reserves, Agency Funds, and MTW Funds. **Page 463**
 12. ORAL COMMUNICATIONS, Non-Agenda (Public Comment)
 13. EXECUTIVE DIRECTOR'S COMMUNICATIONS
 14. COMMISSIONER COMMUNICATIONS, (Communications from the Commissioners)
 15. CONTINUATION OF CLOSED SESSION OF HOUSING AUTHORITY BOARD OF COMMISSIONERS – IF NEEDED
 16. Announcement of Action Taken in Closed Session, if any.
 17. ADJOURNMENT



* * * Note * * *

- Documents related to this agenda are available on-line at:
<https://www.alamedahsg.org/meetings/>
- Know Your RIGHTS Under The Ralph M. Brown Act: Government's duty is to serve the public, reaching its decisions in full view of the public. The Board of Commissioners exists to conduct the business of its constituents. Deliberations are conducted before the people and are open for the people's review. In order to assist the Housing Authority's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the Housing Authority accommodate these individuals.





**DRAFT MINUTES
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
WEDNESDAY, MAY 17, 2023**

PLEDGE OF ALLEGIANCE

Chair Grob called the meeting to order at 5:30 p.m.

1. ROLL CALL

Present: Chair Grob, Vice-Chair Tamaoki, Commissioner Husby,
Commissioner Joseph-Brown, and Commissioner Sidelnikov

Absent: Commissioner Hadid and Commissioner Kaufman

2. AB2449 COMPLIANCE - The Chair will confirm that there are 4 members in the same, properly noticed meeting room within the jurisdiction of the City of Alameda. Each board member who is accessing the meeting remotely must disclose verbally whether they are able to be remote under AB2449: (1) just cause (max. 2 per year), or (2) emergency circumstances.” For Emergency Circumstances, the request must be approved by a majority vote of the Board of Commissioners for the emergency circumstances to be used as a justification to participate remotely. Remote Commissioners must provide a general description of the circumstances relating to need to appear remotely at the given meeting. Commissioner must also publicly disclose at the meeting, prior to any action, whether any other individuals 18 years or older are present in the room with the member at the remote location, and the general nature of the member’s relationship with such individuals. Note: A Commissioner cannot participate in meetings of the Board of Commissioners solely by teleconference from a remote location for a period of more than 3 consecutive months or 20% of the regular meetings for AHA within a calendar year, or more than 2 meetings if the Board of Commissioners regularly meets fewer than 10 times per calendar year.

Chair Grob confirmed that five Commissioners were present in the noticed meeting room, located within the City of Alameda, and no commissioners were attending the meeting remotely.

3. COMMISSIONER RECUSALS



None.

4. Public Comment (Non-Agenda)

No public comment.

Chair Grob stated that the Board would hear item 11.A first.

5. Closed Session - start at approximately 6:30 p.m. - Adjournment to Closed Session to Consider:

Chair Grob adjourned to Closed Session at 6:30 p.m.

5.A. Closed Session: Purpose: Executive Director Evaluation for 2022-23.

5.B. Conference with Legal Counsel – Existing Litigation (subdivision (d)(1) of Government Code Section 54956.9)

Name of Case: Housing Authority of the City of Alameda v. Kathleen Moore (Alameda County Superior Court Case No. 22CV008223)

5.C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Government Code Section 54956.8.

Property Location: 401 Willie Stargell Avenue, Alameda, CA 94501

Assessor's Parcel Numbers: 074-0905-042-03

Agency Negotiators: Vanessa Cooper, Executive Director, Sylvia Martinez, Director of Housing Development, and Bridget Galka, Project Manager
Negotiating Parties: Housing Authority of the City of Alameda and Shinsei Gardens Apartments, L.P.

Property Owner: Shinsei Gardens Apartments, L.P.

Under Negotiation: Exercise of purchase option and right of first refusal.

6. Adjournment of Closed Session

Chair Grob adjourned Closed Session at 7:00 p.m.

7. RECONVENE REGULAR MEETING - 7:00 p.m.

Chair Grob reconvened regular meetings at 7:00 p.m.

8. Announcement of Action Taken in Closed Session, if any.

Chair Grob stated that during Closed Session the Board discussed items 5.A, 5.B. and 5.C.

9. Public Comment (Non-Agenda)



None.

10. CONSENT CALENDER

Consent Calendar items are considered routine and will be approved or accepted by one motion unless a request for removal for discussion or explanation is received from the Board of Commissioners or a member of the public.

- *10.A. Approve Minutes of the Board of Commissioners Meeting held April 19, 2023.
- *10.B. Accept the Quarterly Overview Report for Executive Department.
- *10.C. Accept the Quarterly Overview Report For Administrative Services Department.
- *10.D. Accept the Monthly Development Report for Rosefield Village.
- *10.E. Accept the Quarterly Overview Report for the Housing Programs Department.
- *10.F. Accept Quarterly Family Self Sufficiency (FSS) Report.
- *10.G. Accept the Quarterly Overview Report for Property Operations.
- *10.H. Accept the Quarterly Overview Report for Housing Development.
- *10.I. Accept the Quarterly Development Report for Poppy Studios (Webster Hotel Conversion).
- *10.J. Accept the Quarterly Development Report for The Estuary I (North Housing PSH I).
- *10.K. Accept the Quarterly Development Report for The Estuary II (North Housing PSH II).
- *10.L. Accept the Quarterly Development Report for Linnet Corner (North Housing Senior Apartments) and Authorize the Use of Reserve Policy Commitment of up to \$3,538,000.
- *10.M. Accept the Quarterly Development Report for The Poplar (2615 Eagle Avenue) and Withdraw 2022 Reserve Policy Commitment of \$1,100,000.
- *10.N. Accept the Quarterly Financial Report through the Month of March 31, 2023.
- *10.O. Accept the Quarterly Investment Report for Period Ending March 31, 2023.
- *10.P. Authorize the Executive Director or designee to negotiate and execute a 3-year contract with Techordia, LLC for IT services in an annual amount not to exceed \$250,000.
- *10.Q. Accept a report of the Emergency Housing Voucher (EHV) Program.
- *10.R. Approve changes in contract with the Executive Director.
- *10.S. Authorize the Executive Director or Designee to take steps necessary to facilitate the purchase of Shinsei Gardens including but not limited to notifying the limited partner of the intent to exercise the option to purchase the limited partnership, conducting due diligence on the property and negotiating an operating agreement for up to 5 years with Resources for Community



Development.

- *10.T. Approve changes to the Administrative Plan Chapter 19 Emergency Housing Vouchers.

Items accepted or adopted are indicated by an asterisk.

Commissioner Sidelnikov moved to accept the Consent Calendar items, and Commissioner Joseph-Brown seconded. The motion passed unanimously.

Yes	5	Chair Grob, Vice-Chair Tamaoki, Commissioner Husby, Commissioner Joseph-Brown, and Commissioner Sidelnikov,
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Absent	2	Commissioner Hadid and Commissioner Kaufman
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11. AGENDA

- 11.A. Faircloth to Rad Presentation (5:30 p.m. Start).

Sepideh Kiumarsi, Management Analyst and Rod Solomon, Hawkins Delafield, and Wood LLP provided a presentation that included an overview of the Faircloth to RAD Basics and Potential Applicability to the Housing Authority of the City of Alameda (AHA).

In response to Commissioner Tamaoki, Ms. Kiumarsi stated that Faircloth to RAD considers 30% of the tenants' current annual income. Vanessa Cooper, Executive Director stated that with the implementation of Faircloth to RAD, there may be a small number of tenants who potentially see a small rent increase. However, if these tenants choose to take a voucher, the long term rent savings far surpass the initial rent increase that may be seen. Ms. Kiumarsi stated that the one household earning approximately \$90k annually is not represented in the presentation because Faircloth to RAD requires income to be at or below 80% AMI and the respective household does not qualify. Ms. Cooper stated that as MTW funds are considered as a HUD subsidy, they are not unrestricted funds. The MTW Supplement comes from excess HAP. Considering that HAP is received based on vouchers used during the prior year, and AHA has a limited number of Project Based Vouchers (PBVs), Faircloth to RAD is beneficial because it increases the overall voucher count and usage. Mr. Solomon stated that for new MTW agencies, the voucher program is funded by considering what was spent the prior year, up to the respective cap, escalated for inflation in the rental market, and adjusted for the national proration of funds for the Section 8 program. As it stands, if agencies supplement the respective units in the current year, they are also funded again the next year. Ms. Cooper stated that excess HAP is held by HUD and not on AHA's books. As of May 2023, AHA had \$4M in excess HAP. It is expected that moving forward, AHA would hold a minimum of \$800K per year in excess HAP. Staff will provide a streamlined presentation to



the tenants, and present the Faircloth to RAD proposal to the Board, for approval, in June.

In response to Chair Grob, Ms. Kiumarsi stated that there will be 120 units at Independence Plaza moving to Faircloth to RAD. There are currently 73 subsidized and 112 unsubsidized units at Independence Plaza. A small number of the unsubsidized units are above the 80% AMI, which makes them ineligible for Faircloth to RAD. Therefore, the 120 Faircloth to RAD units will include 10 – 15 units that move from PBV to Faircloth to RAD.

- 11.B. Adopt the Resolution to Approve the Housing Authority's One-Year Budget for Fiscal Year July 1, 2023 to June 30, 2024 including approval of: A) Summary of the FY2023-24 Budget and related income and expenses; B) Housing Assistance Payment (HAP) Budget and related expenditure of HUD-held HAP reserves; C) Capital Improvement Project (CIP) Budget and related use of property and agency reserves and any surplus operating cash from Fiscal Year 2023-24 to cover these expenses; D) Transfer by the Executive Director of up to \$1,338,094 in this budget year, as needed, from AHA property reserves or from Moving-To-Work fungible funds to cover losses in the Housing Programs Department administrative operating budget E) Adopt the revised Schedule of Authorized Positions for Fiscal year 2023-2024 and Pay Schedule for Fiscal year 2023-2024.

Louie So, Director of Finance provided a presentation that included an overview of the budget for Fiscal Year 2023-2024 (FY23-24) and highlighted the Operating Income and Expenses, Housing Assistance Payments (HAP Pass-Through), and Capital Improvement Projects (CIP).

In response to Vice-Chair Tamaoki, Ms. Cooper stated that when in shortfall, AHA applied for special funds which were granted and spent. As HUD replicates what was spent in the previous year, in the following year HUD replicated all funds spent, including the special funds amount. The current reserves have accumulated over approximately 2 years and include monies saved through the subsidies having not been paid for those who no longer qualify for a Project Based Voucher (PBV), but have not been evicted due to the moratorium. Once the budget is approved, AHA must spend the reserves, so that the renewal level comes in higher next year. Sylvia Martinez, Director of Housing Development stated that the capital budget reflects a net transfer from one project to another which is included in the presented budget. This transfer is reflected in the line items and does not affect the total.

In response to Commissioner Sidelnikov, Ms. Cooper stated that the changes in the budgeted amounts for Maintenance and maintenance salaries is a reflection of properties having been transferred to an outside contractor. The budgeted amount for police services is a reflection of the City of Alameda not renewing the



respective services agreement. The City does plan to provide project specific housing funding, but will not continue funding for policing of the properties. After discussing this matter further with the City, Ms. Cooper will report back to the Board. Mr. So stated that the "Tree Removal" line item reflected in the CIP is for tree maintenance throughout the respective property. Ms. Cooper stated that staff will confirm what this maintenance entails and report back to the Board.

Commissioner Sidelnikov moved to adopt the Resolution to Approve the Housing Authority's One-Year Budget for Fiscal Year July 1, 2023 to June 30, 2024 including approval of: A) Summary of the FY2023-24 Budget and related income and expenses; B) Housing Assistance Payment (HAP) Budget and related expenditure of HUD-held HAP reserves; C) Capital Improvement Project (CIP) Budget and related use of property and agency reserves and any surplus operating cash from Fiscal Year 2023-24 to cover these expenses; D) Transfer by the Executive Director of up to \$1,338,094 in this budget year, as needed, from AHA property reserves or from Moving-To-Work fungible funds to cover losses in the Housing Programs Department administrative operating budget E) Adopt the revised Schedule of Authorized Positions for Fiscal year 2023-2024 and Pay Schedule for Fiscal year 2023-2024, and Vice-Chair Tamaoki seconded. A roll call vote was taken, and the motion passed unanimously.

- Yes 5 Chair Grob, Vice-Chair Tamaoki, Commissioner Husby, Commissioner Joseph-Brown, Commissioner Sidelnikov
- Absent 2 Commissioner Hadid and Commissioner Kaufman

12. ORAL COMMUNICATIONS, Non-Agenda (Public Comment)

None.

13. EXECUTIVE DIRECTOR'S COMMUNICATIONS

Vanessa Cooper, Executive Director stated that there has been a steep increase in AHA receivables. With the end of the moratorium, AHA is now following the CARES Act, which is 3 days to pay or 30 days to quit, and these notices are now being issued. A number of these notices were issued this month and many tenants are either paying or agreeing to a payment plan. However, there are still a substantial number of tenants that have not responded to the notices. Therefore, it is expected that that the number of terminations of tenancy, for nonpayment, filed with the court will increase in the coming weeks. This may result in increased complaints received by the Board and HUD. With the goal of keeping as many tenants housed as possible, AHA is first considering options for tenants with the largest outstanding balances. However, it is estimated that there are 50K – 100K residents behind in rent in Alameda County and there is limited rental assistance available. In the coming months, staff will continue



analysis of this issue. LifeSTEPS is assisting tenants with options for paying past rent, as well as helping to get tenants into the work force in order to lessen the chance of them falling behind in their rent in the future.

Tony Weng, Senior Project Manager stated that the North Housing Master Plan passed the first phase fire map at the May 16, 2023 City Council Meeting which allows AHA to prepare to begin work on the first three projects.

Joshua Altieri, Community Relations Manager stated that after redesigning and launching AHA’s new website, in September 2022, in partnership with Planeteria, AHA submitted the website for award recognition to the California Association of Public Information Officers. The website received an Award of Distinction, which is presented for projects that exceed industry standards in quality and achievement.

Ms. Cooper expressed gratitude for staff assisting with walking properties and providing property reports and noted the three interns who are due to begin their respective assignments in the Housing Development and Finance Departments, and MTW project on May 30, 2023. An additional intern is scheduled to begin working with Mr. Altieri, in the Fall, to assist with AHA’s emergency preparedness project for low income families.

14. COMMISSIONER COMMUNICATIONS, (Communications from the Commissioners)

Commissioner Sidelnikov stated that he looks forward to the interns joining AHA and would like to see them present an item to the Board during their tenure and he would like staff to schedule site tours of all the properties.

15. CONTINUATION OF CLOSED SESSION OF HOUSING AUTHORITY BOARD OF COMMISSIONERS – IF NEEDED

N/A

16. Announcement of Action Taken in Closed Session, if any.

N/A

17. ADJOURNMENT

Chair Grob adjourned the meeting at 7:46 p.m.



Vanessa M. Cooper
Secretary and Executive Director

Carly Grob, Chair
Board of Commissioners





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701 Atlantic Avenue • Alameda, California 94501-2161

To: Honorable Chair and Members of the Board of Commissioners

From: Sylvia Martinez, Director of Housing Development

Date: June 21, 2023

Re: Accept the Monthly Development Report for Rosefield Village.

BACKGROUND

The Housing and Community Development Department provides monthly reports on projects under construction where either the Housing Authority of the City of Alameda (AHA) or Island City Development (ICD) is acting as developer and provides performance guarantees.

The Rosefield Village project includes new construction of 78 units and renovation of 14 units, totaling 92 units, located on the 700 block of Buena Vista Avenue. ICD is the developer. The overall project scope included both the rehabilitation of existing structures and the construction of a new building in the middle of the site. In addition to the 78 units, the new central building includes onsite laundry facilities, property management offices, social service coordination offices, a community room, and a central courtyard with recreation areas. Twelve existing units, in five buildings, on the east and west sides of the new building were renovated, and one house was converted into a duplex. Please see previous monthly Board Reports for project details prior to this month's update.

DISCUSSION

The project received its construction completion and Certificate of Occupancy in August 2022.

738 Eagle Fire Service

Staff met with EBMUD in early June for a pre-construction inspection for the installation of a new fire service line for the duplex at 738 Eagle. EBMUD anticipates that their work will be done in mid-June, and ICD's contractor will then complete the fire service. Staff will then request permission from the Alameda Fire Department to occupy the second half of the duplex.

Leasing and Income

The project achieved 100% lease up of its tax credit units (89 units, including 23 project



based voucher units) as of October 31, 2022, which is a major milestone. The site has one vacancy and a one unit on hold (see above). All vacancies are being actively leased from the wait list.

Rent collection at this property has been an issue due to a combination of the eviction moratorium, economic stress on working-class residents, and weakness in the former property management firm. Staff and new property management are now reviewing receivables on a weekly basis and have been able to connect directly with most of the affected households to work out payment plans. Staff is providing frequent updates on the status of rent collections to the funders and have received feedback that conversion remains on schedule for the August 2023 deadline.

Stabilization and Conversion

The next major steps for the project are to achieve stabilization and conversion to the permanent loan phase. The stabilization includes documentation of three months of stable operations. Conversion requires that all tax credit units be appropriately leased, the stabilization period has passed, and the CPA firm has certified all costs of the project. The CPA review of costs is under review. Staff has received extensions from the construction lender and the California Tax Credit Allocation Committee on milestones and reporting that have not been able to be completed. It is anticipated that the conversion will occur in August 2023, before the September 1, 2023 deadline to utilize the interest rate lock. At that time, AHA will be eligible to receive an additional developer fee, and the construction loan will be paid off by investor proceeds and the permanent loan.

FISCAL IMPACT

Until the project converts to the permanent loan, all guarantees are in place and the construction loan is recourse to ICD and the Housing Authority. In addition, the project still needs to meet the major milestone of conversion to avoid losing its interest rate lock and to pay out additional developer fee. At this point, the project continues to be under budget, largely due to construction cost savings.

CEQA

Not applicable.

RECOMMENDATION

Accept the Monthly Development Report for Rosefield Village.

ATTACHMENTS

None

Respectfully submitted,



Sylvia Martinez, Director of Housing Development



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of the
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To: Honorable Chair and Members of the Board of Commissioners

From: Lynette Jordan, Director of Housing Programs

Date: June 21, 2023

Re: Accept the Monthly Overview Report for the Housing Programs Department.

BACKGROUND

This memo is a high-level overview of Housing Programs Department (HPD) activities for the month of May 2023.

DISCUSSION

Office Hours Update

Effective July 10, 2023, our open office hours will change to 8:30 a.m. - 3:00 p.m. As the Housing Authority of the City of Alameda (AHA) transitions to the MTW model and HCV leasing efforts increase, it will be important that we are available to the public to service their ongoing needs. With many of our processes moving online and our continued efforts to develop more efficiencies to assist participants online and virtually, we may not see that high of an increase in visitors to the office. However, staff will be prepared to meet the needs of our participants and visitors to our office.

Online Recertification Update

Earlier this year, the Housing Authority of the City of Alameda (AHA) reinstated our in-person Rent Café Workshops to assist with the online recertification/ interim portal. AHA participants needing assistance or training on how to complete an annual or interim certification through the online portal can attend the workshop where staff can assist at the in-person workshop.

- Annual and Interim recertification processing
- Password and sign on issues
- Uploading documents
- Training on the Rent Cafe portal system
- The workshops are held every other Wednesday at 10 a.m. -11 a.m., at 703 Atlantic Avenue, Alameda, CA 94501 in the Ruth Rambeau Community Room.
- Yardi Applicant Portal Voucher Issuance



AHA staff continue to use the new applicant portal to process the 200 applicants selected from the Housing Choice Voucher (HCV) waitlist on March 3, 2023. Utilizing the portal, staff were able to make the leasing efforts easily accessible for applicants on the HCV waitlist and ensured all applicants were contacted by email address or mail. Of the 200 applicants outreached to, 160 applicants responded, and 140 submitted the needed documents to be processed for a voucher. To date, AHA staff have issued 69 vouchers. Staff are actively processing the remaining applicants and review the our leasing goals to determine if more applicants will need to be selected.

FISCAL IMPACT

For report only, no fiscal impact.

CEQA

N/A

RECOMMENDATION

Accept the Quarterly Overview of the Housing Programs Department.

ATTACHMENTS

1. Copy of 10-C Attachment 1 -HPD Performance

Respectfully submitted,



Lynette Jordan, Director of Housing Programs

Attachment 1 - Housing Programs Department Performance Report
Month May

Item	January	February	March	April	May	June	July	August	September	October	November	December	YTD
HAP spent for month	\$2,864,663	\$ 2,848,820	\$2,887,101	\$ 2,851,934	\$2,911,566								\$ 14,364,084
Vouchers under lease at start of month	1530	1529	1535	1529	1568								n/a
Vouchers issued during the month	4	10	45	16	13								88
New units leased in private market	5	1	3	1	2								12
New units leased in affordable market	7	5	5	8	7								32
Seeking vouchers	18	43	61	62	106								290
Port outs leased	0	1	1	0	1								3
Port ins leased	5	1	3	4	2								15
Annuals completed	129	130	181	122	133								695
Interims completed	54	24	38	35	79								230
Rent Increases completed	31	43	124	64	90								352
Inspections conducted	56	69	133	166	171								595
Inspections passed first time	37	18	65	66	64								250
Hearings requested	9	0	11	11	17								48
Hearings held	1	6	4	2	1							0	14
End of Participation *	9	5	4	3	3							0	24

* includes deaths, over income, voluntary surrender of voucher, etc.



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To: Honorable Chair and Members of the Board of Commissioners

From: Janet Basta, Director of Human Resources and Operations

Date: June 21, 2023

Re: Approve a one-time pilot to allow the cash out of accrued leave during calendar year 2024.

BACKGROUND

In November 2020, the Housing Authority of the City of Alameda (AHA) Management proposed eliminating the Vacation Pay-Out provision included in the Vacation Leave policy, among other changes to the policy impacting caps on vacation accrual. It was explained that offering a vacation pay-out would have been an option to address high vacation accrual balances, but legal counsel had provided updated guidance that there would be significant tax implications to all employees should any employees participate in a pay-out that might be offered. At that time, the Board elected to not adopt that portion of the proposed policy changes that addressed the vacation pay-out provision and requested that additional information regarding options be provided.

Management returned to the Board in October 2021 and recommended eliminating the Vacation Pay-Out provision in the upcoming Employee Handbook revision. This change was adopted in February 2022.

DISCUSSION

At the time of elimination of the Vacation Pay-Out policy, Management had explored and reported on alternative approaches to the policy that was in place as requested and did not recommend adopting the only approach available due to the complexity of the approach and resulting administrative burden reasons. However, changes were made to the maximum vacation accrual cap to allow for increases to the maximum accrual of vacation leave; these changes were made primarily in response to COVID-19 which restricted the availability of vacation leave use during the pandemic. The current vacation policy provides for a gradual reduction of the accrual cap to the original level of 250 hours effective January 1, 2024.

Even with the gradual reduction in place and travel options becoming more available, a significant number of staff have had to use vacation incrementally to stay below the cap or have hit the cap and ceased to accrue additional vacation. As of the beginning of



June, there were nine staff with accrual balances greater than 250 hours. This is due to a variety of reasons, including staff with longer tenure (and thus higher accrual rates) or increases to accrual amounts that have been granted, as well as ongoing work needs due to vacancies/leaves and new work opportunities, some with tight deadlines, that can make it challenging to use vacation leave in a timely fashion. Even with planned time off in the upcoming months, there is a likelihood that at least some of the staff with high balances will have difficulty bringing and keeping those comfortably under the accrual cap in the upcoming year.

As a result, Management is proposing offering a cash in lieu of vacation pilot that would be in effect for 2024. This pilot program has been reviewed by HR legal and would meet the requirements of such programs to avoid constructive receipt of income, explained below.

Under Federal Regulations, compensation is included in an employee's gross income in the year it is received, whether it is actually received or constructively received. Constructive receipt of income occurs when compensation is credited to an employee's account or otherwise made available so that the employee could have drawn upon it during the taxable year if notice of intention to withdraw had been given. This is true even if the employee never actually withdraws the funds (i.e. in this case, requests a pay-out of vacation leave). However, income is not constructively received if the employee's control of its receipt is "subject to substantial limitations or restrictions." (26 C.F.R § 1.451-2(a).) The current program/pilot policy has been created to be within the substantial limitations or restrictions in place that would prevent constructive receipt being triggered.

The proposed plan is one where employees elect in the current calendar year how much vacation they want to cash out in the subsequent year. The election must be irrevocable, and only leave accrued during the calendar year when the cash-out occurs is eligible to be cashed out. For example, to cash out leave in calendar year 2024, an employee would need to make an irrevocable election to cash out X hours of leave in 2023, and only leave earned in 2024 would be eligible to be cashed out during 2024. Further details are included in Exhibit 1.

This is proposed as a one-time pilot that will be evaluated for its utilization and administrative/operational impact. Staff will report back to the Board periodically and will make a final recommendation prior to 2025 regarding whether or not to adopt this as a formal policy and incorporate it into the Employee Handbook.

FISCAL IMPACT

Depending on the number of staff that elect to participate, the amount of their elections, and the salary levels of those that participate, there will potentially be additional compensation paid out in 2024. Capping the amount of each employee's request at 80 hours will help to moderate the impact of this, and staff will include a report of payments made under this pilot program in the follow-up report to the Board. While it is difficult to project how many staff may participate, it is anticipated that savings from unfilled

positions will likely be adequate to cover the cost of the pilot program, if approved.

CEQA

Not applicable to this item.

RECOMMENDATION

Approve a one-time pilot to allow the cash out of accrued leave during calendar year 2024.

ATTACHMENTS

1. Exhibit 1 Pilot Policy Cash In Lieu of Leave

Respectfully submitted,



Janet Basta, Director of Human Resources and Operations

PILOT POLICY FOR 2024 - CASH IN LIEU OF LEAVE HOURS POLICY

ELIGIBILITY:

Cash in Lieu of Leave is limited to 80 hours in any calendar year, and employees who request a Cash in Lieu of Leave pay-out are required to have 160 hours of vacation leave accrued on November 1 of the calendar year prior to that in which the employee is electing to cash out in. For eligible staff, up to 37.5 hours of executive leave may also be requested as cash in lieu of leave.

Additional criteria include:

- Cash in Lieu is available only to full-time regular employees who have completed their probationary period; no other employees are eligible to participate in this program.
- Employees who wish to cash out vacation leave must have accrued a minimum of 160 hours of vacation leave by November 1 of the calendar year when they make the request.
- Cash in Lieu of Leave requests must be in hour increments.
- Cash in Lieu of Leave is a final transaction, i.e., leave may not be reinstated once it has been paid out to the employee.

ELECTION PROCESS:

Employees must submit an irrevocable election form by November 30th of each year to receive payment in the subsequent year for accrued vacation under the following conditions:

- Employees may elect to cash out accrued vacation hours on an annual basis, up to a maximum of eighty (80) hours each year, to be paid no later than the last paycheck in December of the following year, as long as the employee has a minimum of one hundred sixty (160) accrued vacation hours at the time the cash out is requested.
- For example, irrevocable election forms submitted in December 2023 will be for the 2024 cash out. The hours of leave, which are converted to pay at the base hourly rate of pay, shall be deducted from the employee's vacation accrual bank in the amount identified on the irrevocable election form. The remaining unused leave shall remain in the employee's vacation accrual bank. The hours which are paid out are hours which will be accrued in 2024.
- Irrevocable election forms will be sent out from Human Resources beginning November 1st each year. Employees who do not submit irrevocable election forms by the November 30th due date will have been deemed to have elected to forgo participation in the optional annual vacation accrual cash out program. Late irrevocable election forms will not be accepted. There is no avenue to change an election after the November 30th yearly submission deadline.
- All elections must be received and recorded by the Director of HR and Operations on or before December 31 of the calendar year preceding the taxable calendar year accrual and cash out period (taxable pay periods between January 1 and December 31).

ELECTION FORM:

- During November of each calendar year, all regular employees who have completed their probationary period will be provided with a Payroll Services Election / Deduction Authorization Cash in Lieu of Leave Hours election form by Human Resources. This form may be electronic.
- The employee is responsible for completing and submitting the form as follows:
 - The employee must complete Election to Receive Cash in Lieu of Leave Hours of the form and check the applicable box to either "Elect Cash in Lieu of Leave Hours" or "Waive Cash in Lieu of Leave Hours".
 - This election is irrevocable after November 30.
 - Only the Executive Director may approve a late application or change and only up to December 15.
- The employee must indicate the number of hours they intend to receive as cash in lieu of leave in the subsequent taxable calendar year.
- The employee must sign and date the election form.
- The Director of HR and Operations will review forms and process those that meet the eligibility criteria as described above.
- Incomplete forms received by the November 30 deadline will be returned to the employee for further action. Any forms returned to the employee for further action must be completed and re-submitted by December 15 for cash out in the subsequent taxable year.
- An employee who does not return the form by the deadline will be deemed to have waived "Cash in Lieu of Leave Hours".
- Any employee who fails to submit an election by November 30 of the preceding taxable calendar year or who submits an incomplete form that is not corrected by the December 15 deadline, shall not be allowed cash in lieu of leave hours during the designated cash out period.
- The employee is responsible for obtaining, completing and submitting request forms by the deadline imposed.

CONFIRMING ELIGIBILITY

Upon receipt of the election form, the Director of Human Resources and Operations will confirm employee eligibility. Only employees that meet eligibility requirements prior to or during the taxable leave redemption period may be allowed cash in lieu of leave hours during the taxable calendar year period. Employees ineligible to receive cash in lieu of leave hours must wait for the next calendar year cycle to perform another election and request a purchase.

- Employees who elect cash in lieu of leave hours but do not qualify will be notified by HR by January 15.
- Payroll staff will be notified of eligible elections received by January 15.

CASH OUT PROCESS

To receive payment of cash in lieu of leave hours, employees must complete a "Payroll Services Request for Payment of Cash in Lieu of Leave Hours" form. Completed forms must be submitted to HR for review and action.

- While the cash out request is made one time annually, eligible employees may request reimbursement for cash in lieu of leave hours two (2) times per calendar year (June 30 or November 30, or the nearest business day immediately preceding these dates).
- For example: An employee elects to redeem 40 hours during the taxable calendar year accrual/redemption period. The employee has the option of receiving cash in lieu of leave hours for a cumulative election total of 40 hours incrementally, but no more than twice within the taxable calendar year accrual/redemption period.
- The minimum cash out request is 40 hours or the remaining balance of the elected cash in lieu amount, whichever is smaller, regardless of the election amount.
- The employee must first accrue the total number of hours requested for cash out during that calendar year and all other eligibility requirements must be met.

Upon receipt of the employee's request to receive payment for cash in lieu of leave hours, HR will reconfirm eligibility to process the cash out request.

- Upon confirmation of employee eligibility, the employee will be paid during one of the next two biweekly payroll process pay dates but no later than July 31 or December 31.
- Hours elected, but not requested for payment within the calendar year period, will be automatically paid out to the employee prior to the final pay period (e.g. pay date 26) of the taxable calendar year. No action will be taken on accounts where hours were elected and no leave hours accrued during the taxable calendar year (i.e. cash out year) remain to be paid out.

Policies and procedures governing the payment of employees who separate from AHA are not affected by this policy, i.e., employees who separate prior to or without requesting to receive cash in lieu are not subject to this policy as accrued vacation and executive leave is paid out at separation per AHA policy.



Housing Authority
of the
City of Alameda

PHONE: (510) 747-4300
FAX: (510) 522-7848
TTY/TRS: 711

701 Atlantic Avenue • Alameda, California 94501-2161

To: Honorable Chair and Members of the Board of Commissioners

From: Louie So, Director of Finance

Date: June 21, 2023

Re: Approve transfer of up to \$1,000,000 from MTW HAP reserves to cover the operating deficit incurred by the Housing Programs Department for Fiscal Year 2023.

BACKGROUND

Historically, the Housing Authority of the City of Alameda's (AHA) Housing Programs Department have operated at a deficit, as HUD administrative fee income is insufficient to cover the costs of the department. The Housing Programs Department administers the Housing Choice Voucher program and other special purpose vouchers (e.g. Emergency Housing Vouchers, Family Unification Program (FUP), Veterans Affairs Supportive Housing (VASH)). The properties owned by AHA & Alameda Affordable Housing Corporation (AAHC) have subsidized this operating deficit for the last 8 fiscal years. The Board of Commissioners have previously approved in the May 2022 meeting for staff to transfer up to \$1,325,697 in the Fiscal Year 2022-2023 (July 1, 2022 through July 31, 2023), as needed, from AHA/AAHC property reserves to cover losses in the Housing Program Department administrative operating budget.

As AHA is now a Moving-To-Work (MTW) agency through an executed MTW Annual Contributions Contract Amendment, AHA is eligible to utilize funding streams to support any eligible MTW expense provided applicable MTW requirements (e.g. annual planning and reporting requirements) are followed. MTW agencies are allowed to shift HCV assistance (including Administrative Fee and Housing Assistance Payments (HAP)) to purposes other than those for which they were originally appropriated, which is referred to as fungibility. Please note the total funding AHA receives from HUD remains unchanged and that such an action may have an impact on AHA's ability to fulfill the MTW requirement regarding minimum number of families served. As such, AHA's unspent HAP reserves can be utilized on a fungible basis, including supporting any operating deficits in the Housing Programs Department.

DISCUSSION

As of May 2023, HUD reported that HUD held reserves was approximately \$4.2 Million. It is expected that based on actual accounting from July 2022 through May 2023 and



projected for June 2023, the Housing Programs Department operating deficit from July 1, 2022 through June 30, 2023 is approximately \$1,000,000. Upon approval by the Board of Commissioners, staff will request from HUD to transfer these funds from unspent restricted HAP funds to backfill the Housing Program Department deficit in lieu of transferring funds from AHA/AAHC property reserves as previously approved by the Board. This proposed action has been reviewed as to consistency with MTW requirement by, Rod Solomon, Partner with the law firm Hawkins Delafield & Wood LLP.

FISCAL IMPACT

Please see recommendation.

CEQA

N/A

RECOMMENDATION

Approve transfer of up to \$1,000,000 from MTW HAP reserves to cover the operating deficit incurred by the Housing Programs Department for Fiscal Year 2022-23.

ATTACHMENTS

None

Respectfully submitted,
Louie So
Louie So, Director of Finance



PHONE: (510) 747-4300
FAX: (510) 522-7848
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701 Atlantic Avenue • Alameda, California 94501-2161

To: Honorable Chair and Members of the Board of Commissioners

From: Sylvia Martinez, Director of Housing Development

Date: June 21, 2023

Re: Approve the Seventh Amendment to the Consultant Services Agreement dated 4/15/15 between Island City Development and the Housing Authority of the City of Alameda.

BACKGROUND

In 2015, a three-year Consultant Services Agreement was signed by and between Island City Development (ICD) and the Housing Authority of the City of Alameda (AHA) for the delivery of real estate development services. The scope and deliverables include the strategy, financing, and implementation of affordable housing development activities such as rehabilitation and new construction. In addition, ICD is asked to provide technical assistance on affordable housing opportunities in the City of Alameda. This contract has been renewed six times, extending the time period and additional fee by one year each time. The Sixth Amendment expires 12/31/2024.

DISCUSSION

ICD continues to be the development arm of the Housing Authority of the City of Alameda and has taken on the financing and development of Littlejohn Commons, Everett Commons, and Rosefield projects in the period from 2015 to the present. ICD has implemented entitlement and predevelopment activities on the North Housing site and plans to continue developing this site in phases. ICD anticipates that it will have five active projects starting in 2023 - three phases of North Housing, Poppy Place (Hotel Conversion) and the The Poplar (2615 Eagle) site. Thus, staff proposes that the fee for staffing services from AHA increase to \$300,000. To support these efforts, staff proposes an extension of the services agreement until 12/31/2026.

FISCAL IMPACT

The AHA fee is typically paid in the second half of the year. In late 2023, if this agreement is approved, ICD will pay AHA a total of \$300,000 per year for staffing services for housing development staff. The funds will come from developer fee income. Payments of \$300,000 will continue in 2024-2026, supported by future developer fees.



CEQA

Not applicable

RECOMMENDATION

Approve the Seventh Amendment to the Consultant Services Agreement dated 4/15/15 between Island City Development and the Housing Authority of the City of Alameda.

ATTACHMENTS

1. Att 1 - Amendment 7 to ICD-AHA Services Agreement

Respectfully submitted,



Sylvia Martinez, Director of Housing Development

**SEVENTH AMENDMENT TO THE
CONSULTANT SERVICES AGREEMENT
BETWEEN ISLAND CITY DEVELOPMENT AND
THE HOUSING AUTHORITY OF THE CITY OF ALAMEDA**

THIS SIXTH AMENDMENT to the Consultant Services Agreement (the "Agreement"), entered into this 18th day of May 2022, by and between ISLAND CITY DEVELOPMENT, a California nonprofit public benefit corporation ("ICD) and the HOUSING AUTHORITY OF THE CITY OF ALAMEDA a public body corporation ("AHA"), is made with reference to the following:

- A. On April 15, 2015, the Agreement was entered into by and between ICD and AHA for delivery of real estate development services; and
- B. On December 5, 2017, the Agreement was amended to extend the completion date to December 31, 2018
- C. On December 20, 2018, the Agreement was amended to extend the completion date to December 31, 2019.
- D. On November 8, 2019, the Agreement was amended to extend the completion date to December 31, 2020.
- E. On December 16, 2020, the Agreement was amended to extend the completion date to December 31, 2021.
- F. On November 17, 2021, the Agreement was amended to extend the completion date to December 31, 2022.
- G. On May 18, 2022, the Agreement was amended to extend the term of the contract to December 31, 2024 with an increased annual contract amount of \$200,000.
- H. ICD and AHA desire to extend the term of the contract for two further years with an increased annual contract amount of \$300,000 and a completion date of December 31, 2026.
- I. Consultant compensation shall be increased, pursuant to the Agreement, in the amount of \$300,000 annually for calendar years 2023 and 2024, for a total contract amount not to exceed \$1,800,000.

NOW, THEREFORE, in consideration of the foregoing, it is mutually agreed by and between and undersigned parties that paragraphs 1. TERM and 3. COMPENSATION TO CONSULTANT, shall be replaced in whole with the following paragraphs:

- 1. TERM: The time for Completion set forth in the contract is nine years, ending December 31, 2026, unless terminated earlier as set forth herein.

2. COMPENSATION TO CONSULTANT: Consultant shall be compensated for services performed pursuant to this Agreement in the amount of \$300,000 annually, for a contract total not to exceed \$1,800,000. Payment will be made based upon the Consultant's submitted and approved invoice.

IN WITNESS WHEREOF, the parties hereto have caused this modification of Agreement to be executed on the day and year first above written.

ISLAND CITY DEVELOPMENT

HOUSING AUTHORITY OF THE CITY OF
ALAMEDA

Vanessa Cooper
President

Vanessa Cooper
Executive Director



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FAX: (510) 522-7848
TTY/TRS: 711

701 Atlantic Avenue • Alameda, California 94501-2161

To: Honorable Chair and Members of the Board of Commissioners

From: Tonya Schuler-Cummins, Principal Management Analyst

Date: June 21, 2023

Re: Adopt of a uniform standard for housing inspections standards for all Housing Authority of the City of Alameda (AHA) funded or AHA owned or affiliate-owned housing units irrespective of funding source.

BACKGROUND

The Housing Authority of the City of Alameda (AHA) is responsible for maintaining the housing quality standards in it's affiliated units. 24 CFR Par. 5, Subpart G; see also Cal. Civ. Code § 1954.

The Housing Quality Standards (HQS) are a minimum set by HUD and may be augmented (but not reduced) by a PHA. AHA has approved its HQS in the Board approved Administrative Plan which is available to the public on our website.

For many years now, AHA has used a third party inspection company, ISterling, to conduct annual HQS inspections for inspections of AHA-owned or affiliated properties and for most inspections of private market properties under the Housing Choice Voucher program. Using a third party inspection firms allows for independence in the event of a dispute with the tenant over habitability and provides for a more uniform application of standards.

Such inspections are conducted for all AHA- owned or affiliated physical units irrespective of the financing and subsidy of the household. This is because AHA is responsible for common areas and for housing issues in one unit that may spread to another (e.g. pest, fire, odors and fumes). In addition such uniform application helps prevent fair housing claims since the same standards are set for all units. This provides an independent check of the work of the third party property management company, FPI. AHA staff do quality control checks on the third party HQS inspector.

On some cities, the city conducts regular property or unit inspections annually to ensure habitability. No such regime exists in Alameda, despite a strong set of other protections for renters. Most AHA-affiliated properties are also directly owned and therefore are also



not inspected by other third parties such as TCAC or the county.

DISCUSSION

HQS inspections are due to be replaced in the coming months by HUD’s new system NSPIRE. This new system places greater emphasis on overall building and common area standards than HQS.

While the specifics of the NSPIR system will come to the Board as part of an update to the Administrative Plan, the board is asked to ratify the policy of annual, third party inspections under HCV or another HUD approved system annually for all AHA owned units.

FISCAL IMPACT

The cost of these inspections is already included in the budget for 2023-24.

CEQA

Not applicable.

RECOMMENDATION

Adopt of a uniform standard for housing inspections standards for all AHA-funded or AHA owned or affiliate-owned housing units irrespective of funding source.

ATTACHMENTS

None

Respectfully submitted,



Tonya Schuler-Cummins, Principal Management Analyst



PHONE: (510) 747-4300
FAX: (510) 522-7848
TTY/TRS: 711

701 Atlantic Avenue • Alameda, California 94501-2161

To: Honorable Chair and Members of the Board of Commissioners

From: Sepideh Kiumarsi, Management Analyst

Date: June 21, 2023

Re: Adopt Resolution regarding Application for and Implementation of Faircloth to RAD program for Independence Plaza to Authorize the Executive Director or designee to execute all steps necessary to apply for, negotiate and execute all documents and implement all activities necessary to apply for Faircloth to RAD conversion and related activities in order to proceed with the recapitalization of Independence Plaza and budget up to \$250,000 for due diligence, and other related activities.

BACKGROUND

The Faircloth Amendment, enacted as a part of the Public Housing Reform Act in 1998, capped the number of Public Housing units for a PHA at the level in existence on October 1, 1999. At that time, the Housing Authority of the City of Alameda (AHA) had 120 units of Public Housing which have since remained on HUD's books with HUD as AHA's Faircloth Limit. Faircloth-to-RAD (FTR) is a 2021 HUD initiative that allows the units under the Faircloth Limit to be developed as Public Housing and then converted to Project-Based assistance under the RAD program. These units also come with new and ongoing funding at the level for which HUD provides for new Public Housing units.

DISCUSSION

In May 2023, the AHA presented its Faircloth-to-RAD approach to the Board of Commissioners and received approval to expend its 120-unit Faircloth limit and undergo the Faircloth-to-RAD process at Independence Plaza.

The AHA would now like to move forward with the Faircloth-to-RAD application process and, as such, is seeking approval to complete the necessary actions in order to complete the Faircloth-to-RAD application process. Actions include but are not limited to: robust communication with residents; submission to HUD of public housing development and RAD application and other materials; reservation of RAD units under the national unit cap; procuring specialized relocation, legal, architectural and other assistance as needed; conducting necessary due diligence; developing a rehabilitation scope of work; committing AHA annual funding; obtaining financing; closing; adjusting



resident rents; conducting temporary resident relocation as necessary; implementing other aspects of the rehabilitation and RAD conversion; and reporting on progress to the Board of Commissioners.

Staff will come back to the Board for financial approval if needed for rehabilitation work.

FISCAL IMPACT

Staff expects the cost of due diligence and other related activities to be less than \$250,000 for legal and financial consulting, studies, and reports.

CEQA

Not Applicable.

RECOMMENDATION

Adopt Resolution regarding Application for and Implementation of Faircloth to RAD program for Independence Plaza to Authorize the Executive Director or designee to execute all steps necessary to apply for, negotiate and execute all documents and implement all activities necessary to apply for Faircloth to RAD conversion and related activities in order to proceed with the recapitalization of Independence Plaza and budget up to \$250,000 for due diligence, and other related activities.

ATTACHMENTS

1. RESOLUTION No. TBD - Adopt Resolution TBD regarding Application for and Implementation of Faircloth to RAD program for Independence Plaza 06.21.

Respectfully submitted,



Sepideh Kiumarsi, Management Analyst

HOUSING AUTHORITY OF THE CITY OF ALAMEDA

Resolution No. TBD

Approve application for and implementation of
Faircloth to RAD program for Independence Plaza

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) is offering a “Faircloth to RAD” (FTR) initiative; and

WHEREAS, FTR provides housing authorities eligible to replace public housing units demolished or disposed of since October 1, 1999 with ongoing operating and capital funding (but not initial capital funding) to replace such units, to be produced as public housing and then converted to Section 8 long-term contracts under HUD’s Rental Assistance Demonstration (RAD); and

WHEREAS, the Housing Authority of the City of Alameda (AHA) is eligible for additional subsidy to support up to 120 FTR units; and

WHEREAS, the AHA staff has examined alternatives for receipt of FTR funds and has concluded that FTR funds should be deployed to support the rehabilitation of Independence Plaza and the reduction of rents for Independence Plaza households now paying more than 30 percent of their adjusted incomes; and

WHEREAS, the AHA staff estimates preliminarily that the use of FTR at Independence Plaza would generate approximately \$900,000 annually in new HUD funding plus inflation-related adjustments, which would need to be supplemented by approximately \$800,000 annually in AHA’s Moving to Work (MTW) funding plus inflation-related adjustments to provide for operating feasibility and modest rehabilitation; and

WHEREAS, the FTR process requires various steps to obtain HUD approval to develop public housing and then to convert public housing to Section 8 under RAD; and

WHEREAS, the AHA’s staff and consultant discussed the potential commitment of FTR to and use of FTR and MTW funds with the Board of Commissioners in detail at the Board of Commissioners meeting of May 17, 2023 and presented a detailed PowerPoint regarding this possibility;

NOW, THEREFORE. BE IT RESOLVED, That:

1. The AHA shall take all appropriate steps to apply to HUD, obtain HUD approval for and implement a Faircloth to RAD conversion of up to 120 units at Independence Plaza (the Conversion).
2. These steps are expected to include robust communication with residents; submission to HUD of public housing development and RAD application and other materials; reservation of RAD units under the national unit cap; procuring specialized relocation, legal, architectural and other assistance as needed; conducting necessary due diligence; developing a rehabilitation scope of work; committing AHA annual funding; obtaining financing; closing; adjusting resident rents; conducting temporary resident relocation as necessary; implementing other aspects of the rehabilitation and RAD conversion; and reporting on progress to the Board of Commissioners.

3. The budget for outside assistance shall not exceed \$250,000 without further approval of the Board of Commissioners.
4. The Executive Director and her designees are authorized to take the above steps and any others as necessary to complete the Conversion.

ATTEST:

Vanessa M. Cooper
Secretary/Executive Director

Kenji Tamaoki, Acting
Chair
Board of Commissioners

Adopted: _____



Housing Authority
of the
City of Alameda

PHONE: (510) 747-4300
FAX: (510) 522-7848
TTY/TRS: 711

701 Atlantic Avenue • Alameda, California 94501-2161

To: Honorable Chair and Members of the Board of Commissioners

From: Tonya Schuler-Cummins, Principal Management Analyst

Date: June 21, 2023

Re: Approve changes to the Administrative Plan to implement the approved MTW activities and new stability vouchers effective July 1, 2023.

BACKGROUND

The Administrative Plan for the Housing Choice Voucher Program (HCVP) for the Housing Authority of the City of Alameda (AHA) establishes the policies and procedures whereby AHA will administer HCVP tenant-based and project-based rental assistance programs under contract to HUD and in accordance with applicable statutes, HUD regulations, and state and local law. In March 2022, the AHA was designated a Moving to Work (MTW) Agency with the Landlord Incentives Expansion Cohort. This allows the AHA to request waivers of regulations from HUD through the Annual Plan and MTW Supplement process. In order to implement some activities, a revision of the Administrative Plan is required.

DISCUSSION

This revision is to implement the MTW activities that HUD approved in March 2023. It also corrects outdated material, typographical errors, and updates the policy for required regulation changes and approved MTW activities. Also, the AHA was awarded new Stability Vouchers in June 2023, so this revision includes the policies needed for that program, which are very similar to the EHVP program. A second major revision of the Administrative Plan will be presented later in the year to implement PIH Notice 2023-03 which requires more Housing Opportunity through Modernization Act (HOTMA) regulation changes. It is also possible that HUD will have finalized the implementation of the National Standards for the Physical Inspection of Real Estate (NSPIRE) this calendar year, which will also require a revision of the Administrative Plan. This revision does not address either of these last two HUD-required changes.

FISCAL IMPACT

This Amendment to the HCVP Administrative Plan will implement the federally-funded landlord incentives and vacancy loss payments as allowed under the approved MTW activities. It will not, however, change the level of funding the AHA receives from HUD.



CEQA

Not applicable.

RECOMMENDATION

Approve changes to the Administrative Plan to implement the approved MTW activities and new stability vouchers effective July 2023.

ATTACHMENTS

1. For June 2023 BOC Updated Admin Plan with Approved MTW changes

Respectfully submitted,



Tonya Schuler-Cummins, Principal Management Analyst

**ADMINISTRATIVE PLAN
FOR THE
SECTION 8 HOUSING CHOICE VOUCHER PROGRAM
OF
THE HOUSING AUTHORITY OF THE CITY OF ALAMEDA**

Approved by the Housing Commission: May 18, 2005

Submitted to HUD: May 23, 2005

Last Revised: ~~September 19, 2018~~ June 21, 2023

ADMINISTRATIVE PLAN – TABLE OF CONTENTS

CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN	1
PART I: THE AHA.....	1
1-I.A. OVERVIEW	1
1-I.B. ORGANIZATION AND STRUCTURE OF THE AHA	1
1-I.C. AHA MISSION.....	2
1-I.D. THE AHA’S PROGRAMS	2
1-I.E. THE AHA’S COMMITMENT TO ETHICS AND SERVICE	2
PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM	4
1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM	4
1-II.B. HCV PROGRAM BASICS.....	<u>665</u>
1-II.C. THE HCV PARTNERSHIPS	6
1-II.D. APPLICABLE REGULATIONS	<u>11409</u>
PART III. THE HCV ADMINISTRATIVE PLAN	<u>11409</u>
1-III.A. OVERVIEW AND PURPOSE OF THE PLAN	<u>11409</u>
1-III.B. CONTENTS OF THE PLAN (24CFR 982.54)	<u>1140</u>
1-III.C. ORGANIZATION OF THE PLAN.....	<u>1342</u>
1-III.D. UPDATING AND REVISING THE PLAN	<u>1342</u>
CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY.....	1
PART I: NONDISCRIMINATION	1
2-I.A. OVERVIEW	1
2-I.B. NONDISCRIMINATION	2
PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES.....	<u>4 43</u>
2-II.A. OVERVIEW	4
2-II.B. Definition of Reasonable Accommodation	4
2-II.C. Request for an Accommodation	5
2-II.D. Verification of Disability	5
2-II.E. Approval/Denial of a Requested Accommodation.....	6
2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments	<u>767</u>
2-II.G. Physical Accessibility	7
2-II.H. Denial or Termination of Assistance	8
PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP).....	8
2-III.A. OVERVIEW	8
2-III.B. ORAL INTERPRETATION.....	9
2-III.C. WRITTEN TRANSLATION	<u>10109</u>
2-III.D. IMPLEMENTATION PLAN	10
<u>PART IV:2-IV:—Affirmatively Furthering Fair Housing in the Family Unification</u>	

Program and other programs covered by this Administrative Plan..... [1140](#)

CHAPTER 3: ELIGIBILITY 1

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS 1

3-I.A. OVERVIEW 1

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), HUD-50058 IB, p. 13] 2

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY 2

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

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT 4

3-I.F. DEPENDENT [24 CFR 5.603]..... 4

3-I.G. FULL-TIME STUDENT [24 CFR 5.603, [HVGHCV GB p. 5-29 ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE PG. 7](#)] 4

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100 and 5.403] 5

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]..... 5

3-I.J. GUESTS [24 CFR 5.100] [665](#)

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS 6

3-I.L. ABSENT FAMILY MEMBERS 6

3-I.M. LIVE-IN AIDE [887](#)

PART II: BASIC ELIGIBILITY CRITERIA..... [109](#)

3-II.A. INCOME ELIGIBILITY AND TARGETING [109](#)

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E] [1140](#)

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218] 13

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, [p. 5-13 ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE PG. 14](#)] [1413](#)

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612 and FR Notice 4/10/06] [1413](#)

PART III: DENIAL OF ASSISTANCE..... [17167](#)

3-III.A. OVERVIEW [17167](#)

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)] [1817](#)

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE [1918](#)

3-III.D. SCREENING [21201](#)

3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE 22

3-III.F. NOTICE OF ELIGIBILITY OR DENIAL [2423](#)

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub. L. 113-4] [24234](#)

CHAPTER 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION 1

PART I: THE APPLICATION PROCESS	1
4-I.A. OVERVIEW	1
4-I.B. APPLYING FOR ASSISTANCE.....	2
4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS.....	3
4-I.D. PLACEMENT ON THE WAITING LIST	443
PART II: MANAGING THE WAITING LIST	4
4-II.A. OVERVIEW	4
4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]	554
4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]	665
4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4].....	7
4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES	8
4-II.F. UPDATING A WAITING LIST [24 CFR 982.204]	8
PART III: SELECTION FOR ASSISTANCE.....	9
4-III.A. OVERVIEW	9
4-III.B. SELECTION AND FUNDING SOURCES	9
4-III.C. SELECTION METHOD.....	10
4-III.D. NOTIFICATION OF SELECTION	16
4-III.E. THE APPLICATION INTERVIEW	17476
4-III.F. COMPLETING THE APPLICATION PROCESS	1848
CHAPTER 5: BRIEFINGS AND VOUCHER ISSUANCE	1
PART I: BRIEFINGS AND FAMILY OBLIGATIONS	1
5-I.A. OVERVIEW	1
5-I.B. BRIEFINGS [24 CFR 982.301]	1
5-I.C. FAMILY OBLIGATIONS	4
PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE.....	7
5-II.A. OVERVIEW	7
5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]	7
5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS.....	899
5-II.D. VOUCHER ISSUANCE AND RESCISSION [24 CFR 982.302] <u>FOR</u> <u>HOUSING CHOICE VOUCHER PROGRAM</u>	109
5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS	1140
CHAPTER 6: INCOME AND SUBSIDY DETERMINATIONS.....	1
PART I: ANNUAL INCOME.....	1
6-I.A. OVERVIEW	1
6-I.B. HOUSEHOLD COMPOSITION AND INCOME.....	2
6-I.C. ANTICIPATING ANNUAL INCOME.....	4
6-I.D. EARNED INCOME	6
6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES	

[24 CFR 5.617].....	8
6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)].....	9
6-I.G. ASSETS [24 CFR 5.609(b)(3) and 24 CFR 5.603(b)].....	10
6-I.H. PERIODIC PAYMENTS	<u>1746</u>
6-I.I. PAYMENTS IN LIEU OF EARNINGS	<u>1847</u>
6-I.J. WELFARE ASSISTANCE	<u>18478</u>
6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]	<u>1948</u>
6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]	<u>2049</u>
6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME	<u>2120</u>
PART II: ADJUSTED INCOME	<u>23223</u>
6-II.A. INTRODUCTION	<u>23223</u>
6-II.B. DEPENDENT DEDUCTION	<u>24234</u>
6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION	<u>24234</u>
6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]	<u>24234</u>
6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]	<u>2524</u>
6-II.F. CHILD CARE EXPENSE DEDUCTION	<u>2726</u>
PART III: CALCULATING FAMILY SHARE AND AHA SUBSIDY	<u>3029</u>
6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS	<u>3029</u>
TTP Formula [24 CFR 5.628]	<u>3029</u>
6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630] ..	30
6-III.C. <u>HARDSHIP POLICIES FOR FAMILIES AND PARTICIPANTS INCLUDED IN MTW</u>	<u>31</u>
6-III.D. APPLYING PAYMENT STANDARDS [24 CFR 982.505]	<u>31306</u>
6-III.DE. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]	<u>3832</u>
6-III. EF. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520] ..	<u>38328</u>
 CHAPTER 7: VERIFICATION	1
PART I. GENERAL VERIFICATION REQUIREMENTS	1
7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]	1
7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS.....	2
7-I.C. UP-FRONT INCOME VERIFICATION (UIV)	3
7-I.D. THIRD PARTY VERIFICATIONS	5
7-I.E. SELF DECLARATION	<u>87</u>
Part II. <u>VERIFYING</u> FAMILY INFORMATION	<u>887</u>
7-II.A. VERIFICATION OF LEGAL IDENTITY	<u>887</u>
7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV GB <u>ELIGIBILITY AND DETERMINATION OF ASSISTANCE</u> , p. 5-12]	<u>998</u>
7-II.C. DOCUMENTATION OF AGE	<u>10109</u>
7-II.D. FAMILY RELATIONSHIPS	<u>10119</u>
7-II.E. VERIFICATION OF STUDENT STATUS.....	<u>1140</u>

7-II.F. DOCUMENTATION OF DISABILITY	<u>1244</u>
7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508] ..	<u>1342</u>
7-II.H. VERIFICATION OF PREFERENCE STATUS	<u>1443</u>
PART III. Verifying Income <u>VERIFYING INCOME</u> AND ASSETS	<u>15145</u>
7-III.A. EARNED INCOME	<u>1544</u>
7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME.....	<u>1644</u>
7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS	<u>16446</u>
7-III.D. ALIMONY OR CHILD SUPPORT	<u>1745</u>
7-III.E. ASSETS AND INCOME FROM ASSETS	<u>17457</u>
7-III.F. NET INCOME FROM RENTAL PROPERTY	<u>1846</u>
7-III.G. RETIREMENT ACCOUNTS	<u>1947</u>
7-III.H. INCOME FROM EXCLUDED SOURCES.....	<u>1947</u>
7-III.I. ZERO ANNUAL INCOME STATUS	<u>19478</u>
7-III.J. STUDENT FINANCIAL ASSISTANCE	<u>19479</u>
7-III.K. <u>PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY</u> <u>RESTRICTIONS</u> parental income of students subject to eligibility restrictions	<u>2048</u>
PART IV. Verifying <u>ERIFYING</u> MANDATORY DEDUCTIONS	<u>202049</u>
7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS	<u>2149</u>
7-IV.B. MEDICAL EXPENSE DEDUCTION	<u>2149</u>
7-IV.C. DISABILITY ASSISTANCE EXPENSES	<u>2220</u>
7-IV.D. CHILD CARE EXPENSES	<u>2422</u>

CHAPTER 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

CHAPTER 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS	1
PART I: PHYSICAL STANDARDS	<u>1</u>
8-I.A. GENERAL HUD REQUIREMENTS	1
8-I.B. ADDITIONAL LOCAL REQUIREMENTS	3
8-I.C. LIFE THREATENING CONDITIONS [24 CFR 982.404(a)].....	4
8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]	5
8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]	5
8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403].....	6
PART II: THE INSPECTION PROCESS	<u>6</u>
8-II.A. OVERVIEW [24 CFR 982.405]	6
8-II.B. INITIAL HQS INSPECTION [24 CFR 982.405(a)]	8
8-II.C. <u>ANNUAL-PERIODIC</u> HQS INSPECTIONS [24 CFR 982.405(a)]	<u>109</u>
8-II.D. SPECIAL INSPECTIONS [HCV GB p. 10-30]	<u>109</u>
8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b), HCV GB p. 10-32]	<u>10109</u>
8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP	<u>10109</u>

CONTRACT	10109
8.II.G. ENFORCING OWNER COMPLIANCE.....	1244
8.II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)] .	1342
PART III: RENT REASONABLENESS [24 CFR 982.507].....	13423
8-III.A. OVERVIEW	1443
8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED	1443
8-III.C. HOW COMPARABILITY IS ESTABLISHED.....	1544
8-III.D AHA RENT REASONABLENESS METHODOLOGY	1645
CHAPTER 9: GENERAL LEASING POLICIES.....	1
9-I.A. TENANT SCREENING	1
9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]	2
9-I.C. OWNER PARTICIPATION	3
9-I.D. ELIGIBLE UNITS.....	43
9-I.E. LEASE AND TENANCY ADDENDUM.....	566
9-I.F. TENANCY APPROVAL [24 CFR 982.305]	899
9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]	1040
9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]	10
CHAPTER 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY	1
PART I. MOVING WITH CONTINUED ASSISTANCE.....	1
10-I.A. ALLOWABLE MOVES	1
10-I.B. RESTRICTIONS ON MOVES.....	3
10-I.C. MOVING PROCESS	4
PART II: PORTABILITY.....	5
10-II.A. OVERVIEW	5
10-II.B. INITIAL PHA ROLE	5
10-II.C. RECEIVING PHA ROLE.....	10
CHAPTER 11: REEXAMINATIONS	1
PART I: ANNUAL REEXAMINATION REGULAR REEXAMINATIONS [24 CFR 982.516, MTW OPERATIONS NOTICE].....	1
11-I.A. OVERVIEW	1
11-I.B. SCHEDULING ANNUAL REEXAMINATION REGULAR REEXAMINATIONS	24
11-I.C. CONDUCTING ANNUAL REEXAMINATION REGULAR REEXAMINATIONS	332
11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]	554

11-I.E. EFFECTIVE DATES	<u>65</u>
PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]	<u>665</u>
11-II.A. OVERVIEW	<u>665</u>
11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION	<u>76</u>
11-II.C. CHANGES AFFECTING INCOME OR EXPENSES	<u>897</u>
11-II.D. PROCESSING THE INTERIM REEXAMINATION	<u>10118</u>
PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT	<u>12911</u>
11-III.A. OVERVIEW	<u>11129</u>
11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES	<u>1240</u>
11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT	<u>13442</u>
11-III.D. DISCREPANCIES	<u>14413</u>
CHAPTER 12: TERMINATION OF ASSISTANCE AND TENANCY	1
PART I: GROUNDS FOR TERMINATION OF ASSISTANCE	<u>1</u>
12-I.A. OVERVIEW	1
12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]	1
12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE	1
12-I.D. MANDATORY TERMINATION OF ASSISTANCE	2
12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS	3
PART II: APPROACH TO TERMINATION OF ASSISTANCE	<u>8</u>
12-II.A. OVERVIEW	8
12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]	8
12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE	8
12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE	9
12-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [Pub.L. 113-114]...	10
12-II.F. TERMINATION NOTICE [HCV-GB, p. 15-7]	12
12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE	13
PART III: TERMINATION OF TENANCY BY THE OWNER	<u>13</u>
12-III.A. OVERVIEW	13
12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum]	13
12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]	15
12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]	<u>16476</u>
12-III.E. EFFECT OF TERMINATION OF TENANCY ON THE FAMILY'S ASSISTANCE	17

CHAPTER 13: OWNERS	1
PART I. OWNERS IN THE HCV PROGRAM	1
13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6].....	1
13-I.B. BASIC HCV PROGRAM REQUIREMENTS	2
13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452].....	4
13-I.D. OWNER QUALIFICATIONS	4
13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641].....	7
PART II. HAP CONTRACTS	8
13-II.A. OVERVIEW	8
13-II.B. HAP CONTRACT CONTENTS	8
13-II.C. HAP CONTRACT PAYMENTS.....	9
13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]	11
13-II.E. HAP CONTRACT TERM AND TERMINATIONS	12
13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]	13
PART III. HCV OWNERS AND THE MTW LANDLORD COHORT	14
13-III.A. MTW ACTIVITIES	14
13-III.B. VACANCY LOSS	14
13-III.C. OTHER LANDLORD INCENTIVES	15

CHAPTER 14: PROGRAM INTEGRITY	1
PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE.....	1
14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE	1
14-I.B. DETECTING ERRORS AND PROGRAM ABUSE.....	2
14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE	2
PART II: CORRECTIVE MEASURES AND PENALTIES	4
14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS	4
14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE	4
14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE	5
14-II.D. AHA-CAUSED ERRORS OR PROGRAM ABUSE.....	7
14-II.E. CRIMINAL PROSECUTION	7
14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES	8

CHAPTER 15: PROGRAM ADMINISTRATION	1
PART I: ADMINISTRATIVE FEE AND HOUSING ASSISTANCE PAYMENT RESERVES [24 CFR 982.155 MTW OPERATIONS NOTICE]	1
PART II: SETTING PROGRAM STANDARDS AND SCHEDULES	

	<u>332</u>
15-II.A. OVERVIEW	<u>332</u>
15-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7 <u>PAYMENT STANDARDS; MTW OPERATIONS NOTICE</u>].....	<u>332</u>
15-II.C. UTILITY ALLOWANCES [24 CFR 982.517]	<u>665</u>
15-II.D. California Utility Allowance Calculator For Energy Efficient Projects Receiving Low Income Housing Tax Credits.....	<u>86</u>
PART III: INFORMAL REVIEWS AND HEARINGS	
	<u>1314</u>
15-III.A. OVERVIEW	<u>1314</u>
15-III.B. INFORMAL REVIEWS.....	<u>1314</u>
15-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555].....	<u>1543</u>
15-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]	<u>2149</u>
PART IV: OWNER OR FAMILY DEBTS TO THE AHA.....	<u>2523</u>
15-IV.A. OVERVIEW	<u>2523</u>
15-IV.B. REPAYMENT POLICY	<u>2523</u>
PART V: RECORD KEEPING	
	<u>2725</u>
15-V.A. OVERVIEW	<u>2725</u>
15-V.B. RECORD RETENTION [24 CFR 982.158]	<u>2825</u>
15-V.C. RECORDS MANAGEMENT	<u>28262</u>
PART VI: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL.....	<u>3027</u>
15-VI.A. OVERVIEW	<u>3027</u>
15-VI.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]	<u>3027</u>
15-VI.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)] ..	<u>3028</u>
PART VII: REPORTING REQUIREMENTS OF VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 201322 (VAWA)	
	<u>3128</u>
15-VII.A. NOTIFICATION TO PARTICIPANTS [Pub. L. 113-4].....	<u>3128</u>
15-VII.B. NOTIFICATION TO APPLICANTS	<u>3128</u>
15-VII.C. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 113-4]	<u>3128</u>
PART VIII: SPECIAL HOUSING TYPES [24 CFR 982 Subpart M]	
	<u>3129</u>
15-VIII.A. OVERVIEW	<u>3129</u>
CHAPTER 16: PROJECT-BASED VOUCHERS.....	1
PART I: GENERAL REQUIREMENTS	<u>2</u>

16-I.A. OVERVIEW [24 CFR 983.5]	2
16-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]	2
16-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]	2
16-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8].....	<u>233</u>
PART II: PBV OWNER PROPOSALS	3
16-II.A. OVERVIEW	3
16-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51].....	3
16-II.C. HOUSING TYPE [24 CFR 983.52]	<u>687</u>
16-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS.....	<u>87</u>
16-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]	<u>98</u>
16-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT	<u>899</u>
16-II.G. SITE SELECTION STANDARDS	<u>1141</u>
16-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]	<u>1342</u>
PART III: DWELLING UNITS	<u>1413</u>
16-III.A. OVERVIEW	<u>1413</u>
16-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]	<u>1413</u>
16-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES	<u>1443</u>
16-III.D. INSPECTING UNITS	<u>1544</u>
PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS	<u>1645</u>
16-IV.A. OVERVIEW [24 CFR 983.151].....	<u>1645</u>
16-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT	<u>1645</u>
16-IV.C. CONDUCT OF DEVELOPMENT WORK	<u>1746</u>
16-IV.D. COMPLETION OF HOUSING	<u>1747</u>
PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)	<u>18476</u>
16-V.A. OVERVIEW	<u>1847</u>
16-V.B. HAP CONTRACT REQUIREMENTS	<u>1847</u>
16-V.C. AMENDMENTS TO THE HAP CONTRACT	<u>2020</u>
16-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(c) and 983.302(e)].....	<u>2120</u>
16-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]	<u>2120</u>
16-V.F. ADDITIONAL HAP REQUIREMENTS	<u>2224</u>
PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS	<u>2224</u>
16-VI.A. OVERVIEW	<u>2224</u>
16-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]	<u>2322</u>
16-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)].....	<u>2423</u>
16-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]	<u>2423</u>
16-VI.E. OFFER OF PBV ASSISTANCE	<u>2625</u>
16-VI.F. OWNER SELECTION OF TENANTS	<u>2725</u>
16-VI.G. TENANT SCREENING [24 CFR 983.255]	<u>2826</u>

PART VII: OCCUPANCY	2827
16-VII.A. OVERVIEW	2927
16-VII.B. LEASE [24 CFR 983.256]	2927
16-VII.C. MOVES	3129
16-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262 as amended by HERA and HOTMA] <u>FOR CONTRACTS EXECUTED PRIOR TO MTW DESIGNATION</u>	3332
PART VIII: DETERMINING RENT TO OWNER	3433
16-VIII.A. OVERVIEW	34331
16-VIII.B. RENT LIMITS [24 CFR 983.301]	3433
16-VIII.C. REASONABLE RENT [24 CFR 983.303]	3635
16-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL	3736
PART IX: PAYMENTS TO OWNER	3837
16-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]	3837
16-IX.B. VACANCY PAYMENTS [24 CFR 983.352]	3938
16-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]	4038
16-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]	4039
CHAPTER 17: FAMILY SELF-SUFFICIENCY PROGRAM	1
<u>PART I. OVERVIEW OF THE PROGRAM</u>	<u>1</u>
17-I.A. OVERVIEW	1
17-I.B. PURPOSE (24 CFR 984.101)	224
17-I.C. NON-DISCRIMINATION (24 CFR 5.105)	2
17-I.D. PROGRAM COORDINATING COMMITTEE (24 CFR 984.202)	2
<u>PART II. RECRUITMENT AND ELIGIBILITY</u>	<u>3</u>
17-II.A. ESTIMATE OF PARTICIPATING FAMILIES (24 CFR 984.201)	332
17-II.B. RECRUITMENT (24 CFR 984.201)	332
17-II.C. ELIGIBILITY (24 CFR 984.201)	443
PROGRAM COORDINATING COMMITTEE (24 CFR 984.202)	53
17-II.D. HEAD OF FSS FAMILY LEAVES ASSISTED UNIT	5
17-II.E. APPLICATION AND SELECTION PROCESS (24 CFR 984.203)	564
<u>PART III: CONTRACT OF PARTICIPATION AND PROGRAM PARTICIPATION</u>	<u>6</u>
17-III.A. ASSESSMENT AND <u>INDIVIDUAL TRAINING SERVICES PLAN (ITSP)</u> (24 CFR 984.303 (b)(2))	675

17-III.B. CASE MANAGEMENT	6-75
17-III.C. CONTRACT OF PARTICIPATION (24 CFR 984.303).....	785
17-III.D. TERMINATION OF CONTRACT OF PARTICIPATION (24 CFR 984.303 (h)).....	8107
PART IV. ESCROW ACCOUNT	9
17-IV.A. ESCROW ACCOUNT IMPLEMENTATION (24 CFR 984.305)	9108
17-IV. B. ESCROW DISBURSEMENTS (24 CFR 984.305 (c)).....	10129
17-IV.C. DISBURSEMENTS OF ESCROW IN CASES OF CONTRACT TERMINATION	11
PART V. PORTABILITY	12
17-V.A. PORTABILITY <u>OVERVIEW</u> (24 CFR 984.306).....	13402
17-V.B. OUTGOING PORTABILITY	12
17-V,C, INCOMING PORTABILITY	13

CHAPTER 18: HUD-VASH PROGRAM	1
PART I. OVERVIEW OF THE PROGRAM.....	1
18-I.A. OVERVIEW	1
18-I.B. RESPONSIBILITIES UNDER PROGRAM.....	2
PART II. ELIGIBILITY AND ADMISSION.....	2
18-II.A. ELIGIBILITY.....	2
18-II.B. ACCEPTABLE DOCUMENTATION:	3
18-II.C. INCOME TARGETING:	4
PART III. CONTINUED OCCUPANCY	4
18-III. A. LEASING	4
18-III. B. UNIT INSPECTIONS	4
18-III. C. PORTABILITY AND TRANSFERS	4
18-III. D. FAMILY BREAK-UP	6
PART IV. TERMINATION.....	6
PART V. MORE INFORMATION	6

CHAPTER 19: EMERGENCY HOUSING VOUCHERS/<u>STABILITY VOUCHERS</u>	1
PART I. OVERVIEW OF THE PROGRAM.....	1
19-I.A. OVERVIEW <u>OF EMERGENCY HOUSING VOUCHERS (EHV)</u>	1
<u>19-I.B. OVERVIEW OF STABILITY VOUCHERS (SV)</u>	2
19-I. <u>BC</u> . FUNDING AND USES OF FUNDING	224
19-I. <u>CD</u> . RESPONSIBILITIES UNDER PROGRAM	433

PART II. ELIGIBILITY AND ADMISSION.....	443
19-II.A. ELIGIBILITY.....	443
19-II.B. DENIAL OF ASSISTANCE	553
19-II.C. REFERRAL TO PROGRAM	554
19-II.D. PREFERENCES.....	554
19-II.E. VERIFICATIONS AND CORRECTION OF OMISSIONS AND ERRORS.....	564
19-II.F. HOUSING SEARCH	664
19-II.G. VOUCHER ISSUANCE	665
19-II.H. PORTABILITY	775
PART III. CONTINUED OCCUPANCY.....	775
19-III.A. APPLICABILITY OF ALL REQUIREMENTS FOR CONTINUE OCCUPANCY	775
PART IV. TERMINATION AND REISSUANCE.....	776
19-IV.A. REISSUANCE	776
19-IV.B. TERMINATION.....	776
19-IV.C. TERMINATION OF ASSISTANCE DUE TO UNDER FUNDING <u>EHV</u>	776
GLOSSARY	1

CHAPTER 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

The Housing Authority of the City of Alameda (AHA) receives its funding for the Housing Choice Voucher (HCV) program from the U. S. Department of Housing and Urban Development. The AHA is not a federal department or agency. A public housing agency 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 AHA enters into an Annual Contributions Contract (ACC) with HUD to administer the program requirements on behalf of HUD. The AHA 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 AHA 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 Housing Authority of the City of Alameda (AHA). This part includes a description of the AHA, 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 AHA

1-I.A. OVERVIEW

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

On March 23, 2022, the AHA signed an amended ACC with HUD to obtain Moving to Work (MTW) designation. This amendment expires in 20 years.

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

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 Alameda for the jurisdiction of the City of Alameda.

The governing body for the AHA is the Board of Commissioners. The Board of Commissioners is made up of seven individuals appointed by the City Council, and it includes two tenant representatives. The Board has overall responsibility for the AHA

budget; organizational structure and staffing patterns; reviewing annual audits; approving new, rehabilitated and acquired housing developments; approving employee wages, benefits, working conditions, and recognizing bargaining units and negotiations herewith; approving all contracts over \$250,000; authorizing eminent domain proceedings; filing or settling lawsuits other than unlawful detainers or debt collections; disposition of all real property; development of assisted housing; and maintenance, modernization, and revitalization of existing facilities.

Formal actions of the AHA are taken by the Board of Commissioners and entered into the official records of the AHA.

The principal staff member of the AHA is the Executive Director (ED). The Executive Director is directly responsible for carrying out the policies of the AHA and is delegated the responsibility for hiring, training and supervising the remainder of the AHA's staff in order to manage the day-to-day operations of the AHA to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Executive Director's duties include budgeting and financial planning for the agency.

1-I.C. AHA 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.

The Housing Authority of the City of Alameda, in partnership with the entire community, advocates and provides quality, affordable safe housing, and encourages self-sufficiency and strengthening community inclusiveness and diversity in housing.

1-I.D. THE AHA'S PROGRAMS

The following programs are included under this administrative plan:

The AHA's administrative plan is applicable to the operation of the Housing Choice Voucher program, special programs under the Housing Choice Voucher program along with Shelter Plus Care and Moderate Rehabilitation Single Room Occupancy (SRO) Program. Policies in the administrative plan are applicable to families who participate in the family self-sufficiency (FSS) program; however, there is also an FSS action plan which addresses the operations and guidelines for the FSS program.

Moving to Work (MTW) activities apply to most participants in both the Housing Choice Voucher and Project-Based Voucher program including Main Stream, Near Elderly, and Family Unification Program. MTW activities do not apply to the Veteran Affairs Supportive Housing (VASH) program, the Emergency Housing Voucher (EHV) program, or the Moderate Rehabilitation (SRO) Program and Shelter Plus Care.

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

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

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, ~~and~~ sanitary, and in good repair housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities, which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program, which maintains quality service and integrity 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 AHA’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 AHA’s support systems and commitment to our employees and their development.
- Conduct business in accordance with core values and ethical standards through a code of conduct which:
 - 1) Requires compliance with the conflict of interest requirements of the HCV program cited in 24 CFR 982.161 which are as follows:
 - (a) Neither the AHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with the tenant-based programs in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:
 - (1) Any present or former member or officer of the AHA (except a participant commissioner);
 - (2) Any employee of the AHA, or any contractor, subcontractor, or agent of the AHA, who formulates policy or who influences decisions with respect to the programs;
 - (3) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or

- (4) Any member of the Congress of the United States.
- (b) Any member of the classes described in paragraph (a) of this section must disclose their interest or prospective interest to the AHA and HUD.
- (c) The conflict of interest prohibition under this section may be waived by the HUD field office for good cause.”; and
- 2) Requires compliance with the employment policies of the City of Alameda Housing Authority regarding conflicts of interest; and
- 3) Prohibits the solicitation or acceptance of gifts or gratuities in excess of a nominal value by an officer or employee of the AHA or any contractor, subcontractor, or agent of the AHA; and
- 4) Utilizes the existing administrative and disciplinary remedies as found in the Memorandums of Understanding with bargaining units representing the employees and managers of the AHA for violation of the AHA’s code of conduct; and
- 5) Informs all officers, employees, and agents of the AHA of its code of conduct.

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

PART II. THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

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

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

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

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

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality (“housing quality standards”) and was within certain HUD-established rent limitations (“fair market

rents”), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family’s adjusted income, with the remainder of the rent paid by the program.

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

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

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation 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.

In 1996, the Moving to Work (MTW) demonstration program for public housing authorities (PHAs) was created to provide PHAs the opportunity to design and test innovative, locally designed strategies that use Federal dollars more efficiently, help residents find employment and become self-sufficient, and increase housing choices for low-income families. MTW allows PHAs exemptions from many existing public housing and voucher rules and provides funding flexibility with how they use their Federal funds. The AHA joined the MTW demonstration program in 2022.

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 AHA is afforded choices in the operation of the program, which are included in the AHA's administrative plan, a document approved by the board of commissioners of the AHA.

Under the AHA's new MTW designation, some programs requirements can be changed by the AHA with HUD approval. The yearly Annual Plan and MTW Supplement contain these waivers to regulation. This plan covers both the programs covered under regulation without modification (families not participating in MTW) along with families participating in the MTW program where regulations may be modified. Families not participating in MTW include families housed under the Veteran Affairs Supportive Housing (VASH) program; families housed under the Emergency Housing Voucher (EHV) program; families housed under the Moderate Rehabilitation Single Room Occupancy (SRO) program; and families housed under the Shelter Plus Care (SPC) program.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the AHA'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 AHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the AHA 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 AHA 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 AHA enters into a contractual relationship with HUD. The AHA 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 AHA, 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.

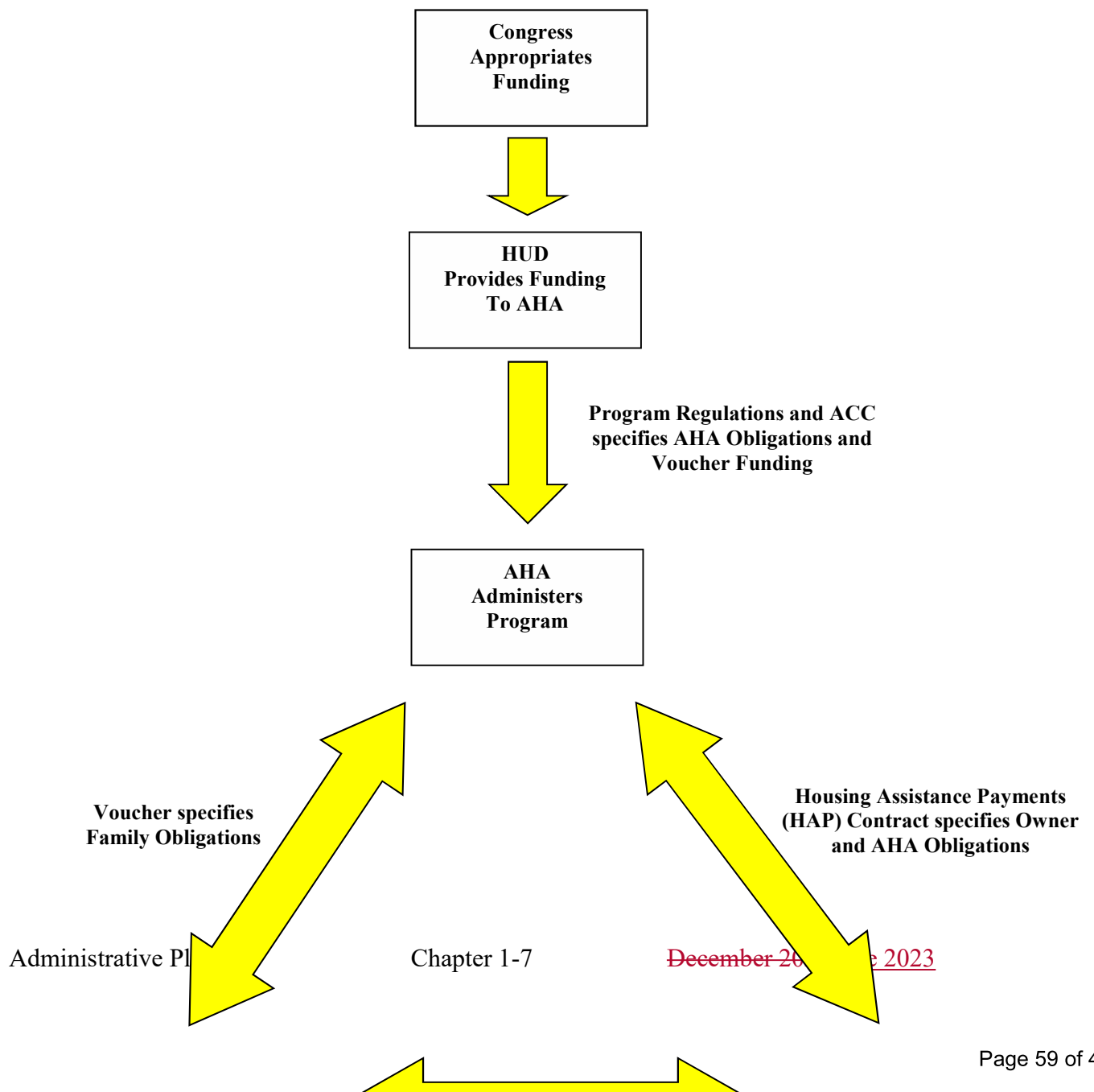
The HCV Relationships:

Step #1 – Congress appropriates funding

Step #2 – HUD provides funding to AHA along with program regulations and an Annual Contributions Contract (ACC) that specifies AHA obligations and Voucher Funding

Step #3 – AHA administers the program and in doing so establishes the following relationships:

- The AHA and families (program participants) have a relationship in which there is a voucher that specifies the family's obligation
- The AHA and owners/landlords have a relationship in which the Housing Assistance Payments (HAP) Contract specifies Owner and AHA obligations
- The families (program participants) and owners/landlords have a relationship in which the lease specifies tenant and landlord obligations



**Family
(Program
Participant)**

Owner / Landlord

**Lease specifies Tenant
and Landlord
Obligations**

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; and
- Monitor AHA compliance with HCV program requirements and AHA performance in program administration.

What does the AHA do?

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

- Establish local policies;
- Review applications from interested applicant families to determine whether applicants are eligible for the program;
- Maintain waiting list and select families for admission;
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Ensure that families and their rental units continue to qualify under the program;

- Ensure that owners and families comply with program rules;
- Provide families and owners with prompt, professional service; and
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the AHA's administrative plan, approved MTW activities and other applicable federal, state and local laws.

What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
 - The AHA 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.
 - Screening factors should not have a disparate impact on any protected individuals or families.
- Comply with the terms of the Housing Assistance Payments contract, executed with the AHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family without collect any extra payments and otherwise comply with and enforce provisions of the dwelling lease.

What does the Family do?

The family has the following responsibilities:

- Provide the AHA with complete and accurate information, determined by the AHA to be necessary for administration of the program;
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the program;
- Cooperate in attending all appointments scheduled by the AHA;
- Allow the AHA 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 AHA and the owner before moving or termination 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 AHA of any changes in family composition as required;
- 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 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Voucher (PBV) Program
- MTW Operations Notice (Federal Register / Vol. 85, No. 168 / Friday, August 28, 2020)

PART III. THE HCV ADMINISTRATIVE PLAN

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

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

This administrative plan is set forth to define the AHA's local policies for operation of the housing programs in the context of federal laws and regulations. Such federal regulations, HUD handbooks and guidebooks, notices and other applicable law govern all issues related to Section 8 not addressed in this document. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding and approved MTW activities.

The AHA 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 AHA staff shall be in compliance with the AHA's personnel policy and HUD's Section 8 regulations as well as all federal, state and local fair housing laws and regulations.

1-III.B. CONTENTS OF THE PLAN (24CFR 982.54)

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

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

term, the AHA administrative plan must describe how the AHA determines whether to grant extensions or suspensions, and how the AHA determines the length of any extension or suspension (Chapter 5);

- Any special rules for use of available funds when HUD provides funding to the AHA 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 1~~65~~);
- Informal hearing procedures for participants (Chapter 1~~56~~);
- The process for establishing and revising voucher payment standards (Chapter 1~~65~~);
- 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 AHA of amounts the family owes the AHA (Chapter 1~~65~~);
- 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 1~~56~~);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- AHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

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 AHA will revise this administrative plan as needed to comply with changes in HUD regulations. The Board of Commissioners must approve any changes.

CHAPTER 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring housing agencies 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 AHA's housing choice voucher (HCV) operations. It also applied to the AHA's Moderate Rehabilitation and Shelter Plus Care programs.

This chapter describes HUD regulations and AHA 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 AHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the housing choice voucher program and the related assistance programs 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 Against National Origin Discrimination Affecting Limited English Proficiency Persons. This part details the obligations of the AHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD's final Guidance, published January 22, 2007 in the *Federal Register*.

Part IV: Affirmatively Furthering Fair Housing. AHA will comply with the affirmatively furthering fair housing requirements of 24 CFR Section 903.7(o), and will work with persons with disabilities, public and private service and resource providers, and property owners to address accessibility problems for persons with disabilities.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal and state laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The California Fair Employment and Housing Act prohibits discrimination in housing on these same bases, as well as gender, gender identity, gender expression, sexual orientation, marital status, ancestry, source of income, and genetic information. The AHA 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)
- California's Fair Employment and Housing Act, Gov't Code Sec. 12900 *et seq.*
- California Unruh Civil Rights Act, Civil Code Sec. 51
- California Disabled Persons Act, Civil Code Sec. 54
- Violence Against Women Reauthorization Act of 2013~~22~~ (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

2-I.B. NONDISCRIMINATION

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

The AHA shall not discriminate because of race, color, sex (includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, as well as gender identity and gender expression), religion, marital or familial status, age, disability, medical condition, national origin, ancestry, source of income, and sexual orientation, (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 AHA 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
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program

- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based on any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- 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 AHA 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 AHA 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 AHA or an owner, the family should advise the AHA. HUD requires the AHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. Any action, decision, or inaction by the AHA that is believed to be in violation of any of the federal or state laws enumerated above may be appealed through the AHA's established grievance procedure, which, depending on the circumstances, may afford the family rights to an informal review, informal hearing, or other reconsideration.

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the AHA either orally or in writing. Such notification should be addressed to the AHA's "Section 504 Coordinator." [A form is also available on the AHA's website at www.alamedahsg.org.](http://www.alamedahsg.org)

In addition, the AHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304]. Discrimination complaints may be filed with ~~California's~~ [California Civil Rights Department \(CRD\) Department of Fair Employment and Housing](https://calcivilrights.ca.gov/) at <https://calcivilrights.ca.gov/>www.dfeh.ca.gov, or HUD's Office of Fair Housing and Equal Opportunity at www.hud.gov.

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

The Housing Authority refers Fair Housing complaints to the local fair housing agency as well as to HUD and the California ~~Department of Fair Employment and Housing~~Civil Rights Department on behalf of a family that claims that illegal discrimination has prevented the family from leasing a suitable unit.

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

The AHA 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 AHA, 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 will be indicated as the contact for requests for accommodation for persons with disabilities.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

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

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the AHA, 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 AHA must modify normal procedures to accommodate the needs of a person with disabilities. Examples include, but are not limited to, the following:

- 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 AHA range) if the AHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit

- Increasing the utility allowance by the amount of additional cost for operating necessary medical equipment
- 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 AHA staff
- Displaying posters and other housing information in locations throughout the AHA's office in such a manner as to be easily readable from a wheelchair
- [Documents in accessible or alternate formats](#)

2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the AHA 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 AHA's programs and services.

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

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

[Request forms and information for submitting reasonable accommodation requests may be found on the AHA's website at \[www.alamedahsg.org\]\(http://www.alamedahsg.org\) or by contacting caseworker.](#)

2-II.D. VERIFICATION OF DISABILITY

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

Before providing an accommodation, the AHA 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 AHA's programs and services.

If a person's disability is obvious, or otherwise known to the AHA, 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 AHA, the AHA 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 AHA 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 156. 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 AHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The AHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.

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

The AHA 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 AHA, or fundamentally alter the nature of the AHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

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

Before making a determination whether to approve the request, the AHA 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 AHA may verify the need for the

requested accommodation.

After a request for an accommodation is presented, the AHA will respond, in writing, within 14 calendar days. The response may be delayed if a knowledgeable professional has been contacted but has not responded to a request for verification of the request from AHA.

If the AHA 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 AHA's operations), the AHA 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.

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

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

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

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

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with AHA 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-II.G. PHYSICAL ACCESSIBILITY

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

- PIH 2011-31 (HA), Accessibility Notice or most current notice
- 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 AHA'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 AHA's responsibilities with regard to physical accessibility.
- Notice PIH 2011-31(HA) Accessibility Notice or most current notice issued by HUD summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The AHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of AHA 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 AHA will include a current list of available accessible units known to the AHA and will assist the family in locating an available accessible unit, if necessary.

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

AHA'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 AHA's informal review process. 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 AHA's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the AHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the AHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the AHA 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 AHA 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, as a result of national origin, 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 AHA has completed the “Four Factor” analysis pursuant to HUD’s guidance. These four factors include: (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 AHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the AHA. [This analysis can be found in the Language Access Plan \(LAP\) found on AHA’s website at \[www.alamedahsg.org\]\(http://www.alamedahsg.org\).](#)

2-III.B. ORAL INTERPRETATION

Oral interpretation can be provided by formal or informal interpreters. The AHA is committed to accuracy in interpretation services provided to LEP persons.

Formal Interpreters: When necessary, the AHA will provide qualified interpreters, including bilingual staff and contract vendors.

At important states that require one-on-one contact, written translations and verbal interpretation services will be provided consistent with the four-factor analysis. The AHA may require a formal interpreter to certify to the following:

- The interpreter understood the matter communicated and rendered a competent interpretation.
- The interpreter will not disclose non-public data without written authorization from the client.

Informal Interpreters: Informal interpreters may include family members, friends, legal guardians, service representatives or advocates of the LEP client. Staff will determine whether it is appropriate to rely on informal interpreters, depending upon the circumstances and subject matter of the communication. In some circumstances,

however, informal interpreters, especially minors, are not competent to provide quality and accurate interpretations. There may be issues of confidentiality, competency, or conflict of interest.

An LEP person may use an informal interpreter of their own choosing and at his/her expense, either in place of or as a supplement to the free language assistance offered by the AHA. If possible, the AHA will accommodate an LEP client's request to use an informal interpreter in place of a formal interpreter. If an LEP client prefers an informal interpreter, after the AHA has offered free interpreter services, the informal interpreter may interpret. In these cases, the client and interpreter could sign a waiver of free interpreter services or other documentation of the offer of formal interpreter services, the refusal, and accommodation of the client's wishes. If an LEP client wants to use his/her own informal interpreter, the AHA reserves the right also to have a formal interpreter present.

2-III.C. WRITTEN TRANSLATION

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

In order to comply with written-translation obligations, the AHA has taken the following steps:

- The AHA will provide written translations of vital documents (i.e., forms or documents that are critical for ensuring meaningful access, or awareness of rights or services, of federally-funded services or benefits) 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 AHA will not translate vital written materials, but will provide 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.
- Use HUD-provided translations when available.

—In addition to staff oral translation capabilities in some languages, the AHA has contracted with a competent vendor to provide oral translations in more than 150 languages.

2-III.D. IMPLEMENTATION PLAN

The AHA has developed a written LEP plan. The AHA's Language Access Plan (LAP):

1. Provides an introduction and the federal requirements;
2. Describes the "Four Factor" Analysis;
3. Outlines the LAP (e.g., access measures, oral and written interpretations, outreach, noticing, etc.);
4. Describes how the LAP will be distributed and staff trained; and

5. How the LAP will be monitored and updated.

2-III.E.PART IV: AFFIRMATIVELY FURTHERING FAIR HOUSING IN THE FAMILY UNIFICATION PROGRAM AND OTHER PROGRAMS COVERED BY THIS ADMINISTRATIVE PLAN

AHA will administer its programs in accordance with all applicable Fair Housing and Equal Opportunity laws, HUD's Limited English Proficiency (LEP) guidelines, and in such a manner as to affirmatively further fair housing.

AHA will comply with the affirmatively furthering fair housing requirements of 24 CFR Section 903.7(o), and will work with persons with disabilities, public and private service and resource providers, and property owners to address accessibility problems for persons with disabilities.

The AHA will recruit applicants using a strategy designed to ensure equal access to the ~~wait list~~waiting list for all persons in any categories protected by federal, state, and local laws governing discrimination.

The AHA will work with persons with disabilities, public and private service and resource providers, and property owners to address accessibility problems for persons with disabilities.

The AHA will inform applicants and voucher participants on how to file a fair housing complaint, and provide the toll-free number for the Housing Discrimination Hotline (1-800-669-9777) as well as information on the appropriate local, state, and federal organizations and agencies charged with investigating fair housing complaints. The AHA will provide HUD's "Are You a Victim of Discrimination?" brochure which includes a Housing Discrimination Complaint form and contact information for the Department of Housing and Urban Development's California ~~Office of Fair Housing~~Civil Rights Department upon request, and will provide fair housing material in alternative formats for participants with disabilities, if requested. This information is also available on the AHA's website www.alamedahsg.org.

The AHA will operate in physical spaces which are accessible and comply with Americans with Disabilities Act (ADA) requirements.

All AHA staff are informed about the importance of furthering fair housing and providing an equal opportunity to all eligible families without regard to any category protected by federal, state, or local laws governing discrimination. Fair Housing Posters are posted throughout the AHA office, including the lobby and interview rooms. Periodic training is provided to AHA staff in fair housing.

The AHA will facilitate effective communication with applicants, beneficiaries and members of the public through practices which ensure that interested persons (including those with impaired vision or hearing) can obtain information concerning the Programs, including but not limited to utilization of TDD/TTY equipment, providing key materials in

languages appropriate to the client base, and taking reasonable steps to provide or allow for interpreters as needed.

The AHA will offer and/or respond to requests for reasonable accommodations in order to allow persons with disabilities to apply for and participate in the Programs offered by the AHA.

AHA and its child welfare agency program partner, the Alameda County Social Services Agency Department of Children and Families (ACSS), will take the following steps as they relate to personnel, participants, and the overall operation of its FUP Program and associated activities:

- (1) Identify and ensure certification of FUP eligible families and youth that may be on the AHA's waiting list and ensure that the family or youth maintains their original position on the waiting list after certification.
- (2) Appropriately place all FUP eligible families and youth referred from the ACSS on the Housing Choice Voucher waiting list in order of first come, first served.
- (3) Inform applicants and FUP voucher participants on how to file a fair housing complaint, and provide the toll-free number for the Housing Discrimination Hotline (1-800-669-9777) as well as information on the appropriate local, state, and federal organizations and agencies charged with investigating fair housing complaints.
- (4) Operate in physical spaces (main office, partner offices or other off-sites locations used for FUP purposes) which are accessible and comply with Americans with Disabilities Act (ADA) requirements.
- (5) Facilitate effective communication with applicants, beneficiaries and members of the public through practices which ensure that interested persons (including those with impaired vision or hearing) can obtain information concerning the FUP Program, including but not limited to utilization of TDD/TTY equipment, providing key FUP materials in languages appropriate to the client base, and taking reasonable steps to provide or allow for interpreters as needed.
- (6) Offer and/or respond to requests for reasonable accommodations in order to allow persons with disabilities to participate in the FUP Program.
- (7) Comply with data reporting requirements through PIC or its successor data systems and the HUD-50058 as a form suitable to meet OMB's Standards for the Collection of Racial and Ethnic Data.
- (8) Promote, review, and revise (as necessary) these policies and procedures to affirmatively further fair housing in the Family Unification Program during regular collaboration meetings and/or at a special meeting held for this purpose at least annually.

AHA will maintain records that these steps have been taken, and gauge their impact from, the following:

- a. Accessible Facilities: Addresses of facilities used for FUP purposes together with notation that they meet accessibility requirements.
- b. Effective Communications: Telephone numbers and names of trained operators of TDD/TTY equipment at the AHA and partner agency offices, copies of key FUP documents in appropriate languages, and copies of AHA policies and notices regarding provision and/or allowance of interpreters together with records of any such services requested by FUP applicants or participants and the response of the AHA or its partner agencies to such requests
- c. FUP Outreach: Copies of materials, notices, or other FUP outreach materials together with distribution lists of the same.
- d. Reasonable Accommodations: Copies of standard language used to offer formal or informal accommodations to FUP applicants and participants; copies of all written requests for reasonable accommodations as they relate to the FUP program together with written records of the AHA or partner agency's responses.
- e. Fair Housing Information: Copies of information, materials, and referrals relevant to fair housing laws and protections, agencies, and discrimination complaint procedures (state and federal) which have been provided to FUP participants.
- f. Minutes of all discussions held as part of regular or special FUP collaboration meetings as they pertain to these policies and procedures to affirmatively further fair housing in the Family Unification Program.

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

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, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

“Major life activities” means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. includes, but is not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, 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 that is treated by another person as constituting such a limitation~~but is treated by a public entity (such as the AHA) as constituting such a limitation~~; has none of the impairments defined in this section but is treated by another person~~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 AHA 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 AHA 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 AHA.
 - 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 family members as required.
 - Consent to the AHA's collection and use of family information as provided for in AHA-provided consent forms.
- The AHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the AHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and AHA 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 AHA to deny assistance.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

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

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(C), HUD-50058 IB, P. 13]

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* is defined by HUD as the following, regardless of actual or perceived sexual orientation, gender identity, or marital status: 1) a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; 2) or a group of persons residing together, and such group includes, but is not limited to: i) a family with or without children; ii) an elderly family; iii) a near-elderly family; iv) a disabled family; v) a displaced family; and vi) the remaining member of a tenant family. The AHA has the discretion to determine if any other group of persons qualifies as a family.

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

To qualify as a family when proposed family members are not related by blood, marriage, adoption, or other operation of law, the AHA will require applicants to demonstrate that the individuals have lived together previously, and certify that each individual's income and other resources will be available to meet the needs of the family.

The addition of a new family member on an application or into an assisted household will be limited to birth, adoption, court-awarded custody, legal guardianship, marriage, civil union, registered domestic partnership or other operation of law, or reasonable accommodation.

Household

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

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

Family Break-up [24 CFR 982.315]

The AHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up. However, if a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the AHA is bound by the court's determination of which family members continue to receive assistance limited to one assisted family upon break-up.

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.

When a family currently receiving housing assistance breaks up, the assistance generally remains with the family members who remain in the assisted unit. If family members are forced to leave the unit because of actual or threatened physical violence against family members by a spouse or other members of the household, the AHA may terminate the HAP contract for the original assisted unit and transfer the assistance to the family members forced to leave. The actual or threatened physical violence must be

documented by a qualified third party, such as a representative of the law enforcement, the judicial system, or a victim service provider; or a HUD-approved certification form. ~~A third party must verify the circumstances and the need for family members to leave the assisted unit.~~ (Notice policies related to terminating assistance for participants who may be victims of domestic violence, dating violence, or stalking are contained in Section 12-II.E.).

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 AHA will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals. In some cases, the Authority may assign the Housing Choice Voucher to the head of household with the lesser adjusted income (i.e., gross family contributions) if the above factors are equal.

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 adult family member able to assume the responsibilities of the head of household, the AHA will terminate the housing assistance. Minor children are not bound by contract law and are unable to enter into a binding contract (i.e., Voucher) with the AHA, nor into a Lease with the property owner. The AHA will recognize the rights of emancipated minors with respect to contracts. In the case where the family breaks up and there is an emancipated minor in the household, the emancipated minor is eligible to assume the rights and responsibilities as head of household for voucher purposes.

For a remaining member of a voucher household to be eligible to become head of household and to keep the voucher, the individual must have been listed on the lease for at least two (2) years; ~~or~~ since admission; ~~or~~ since the beginning of the head of household’s tenancy (if less than two (2) years since admission or relocation into the AHA’s jurisdiction under Portability).

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.

The family may designate any qualified family member as the head of household. See above for limitations on eligibility for a remaining family member to be designated as head of household.

The head of household must have the legal capacity to enter into a lease under state and local law. 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 or domestic partner of the head of household. The term “spouse” does not apply to friends, roommates, or significant others who are not marriage or domestic 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. 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 deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

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 AHA 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. Dependents cannot receive duplicative assistance in multiple households.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603, HVCHCV GB ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE PG. 7P. 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 deduction and (2) the income of such an FTS is treated differently from the income of other family members.

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

Elderly Persons

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

Near-Elderly Persons

A *near-elderly person* is a person who is at least 50 years of age but below the age of 62.

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 these families qualify for special deductions from income as described in Chapter 6.

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

Persons with Disabilities

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or 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 AHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability. An individual may qualify for a reasonable accommodation but not meet HUD's definition of disabled for purposes of determining a Disabled Family.

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 special deductions from income as described in Chapter 6.

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

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

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

A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period. The lease with the owner may further restrict guest stays and should be reviewed for compliance.

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

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.

Income of temporarily absent household members will continue to be counted towards the family's portion of rent and reporting requirements are the same as if the temporarily absent family member was residing in the unit.

Definitions of Temporarily and Permanently Absent

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.

In the case where the household member is the spouse, legal separation, filing for dissolution of marriage, annulment, or other verification acceptable to the Housing Authority will be sufficient proof that the family member is no longer a member of the household. In the case of a minor child, proof that legal custody has been granted to another will be proof that the child is no longer in the home.

Absent Students

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 AHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Student attending school away for applicant families are not considered family members.

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.

If a child has been placed in foster care, the AHA 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. The household will report if the temporary absence becomes permanent.

Absent Head, Spouse, or Cohead

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]~~.

The AHA will request verification from a responsible medical-knowledgeable professional and will use this determination. If the responsible medical-knowledgeable professional cannot provide a determination, the person generally will be considered temporarily absent. If verification cannot be obtained and the family member is absent for more than 180 days, the situation will be evaluated and the AHA may determine that the family member is permanently absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

See Section 12-I.E. for single person families.

Return of Permanently Absent Family Members

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

3-I.M. LIVE-IN AIDE

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

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

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

The Housing Authority encourages families to care for their elderly and disabled members. The Housing Authority will allow family caretakers to be included as part of the assisted household, granting the family a unit with an additional bedroom, when appropriate. The family caretaker's income is included in the household's income determination and subsidy standard. For example, a family member's income from an In-Home Supportive Service program is included as household income, as that income is not paid by the disabled person as a medical expense.

The Housing Authority presumes that a relative is a household member, not a live-in aide. For a relative to qualify as a live-in aide, the tenant must show that the care provided is an arms-length transaction. To do this, the family must certify that:

1. The person is capable of providing the required care for the tenant;
2. The person has never been a member of the household while the family was receiving housing assistance, nor has the person made regular financial contributions to the household while the family was receiving housing assistance;
3. There is no other reason for the person to live in the unit other than to provide care for the disabled tenant; and

4. The person intends to maintain his or her finances separately and live independently from the disabled tenant's household, providing care purely is an arms-length transaction.

The Housing Authority shall apply a preponderance of the evidence standard in determining whether the family has met its burden of proof. If the Housing Authority denies the family member live-in aide status, the Authority will notify the family in writing. The family may request an informal hearing within 14 calendar days of the date of the letter.

Upon the Housing Authority's determination that a relative is a family member and, therefore, does not qualify as a live-in aide, the family may request to add the person as a household member.

The requirement regarding relatives as live-in aides is continuously in effect. The Housing Authority may determine that a relative, who has taken the place of a live-in aide, does not meet the definition of a live-in aide and will be counted as a household member. If the Housing Authority makes such a determination, it will notify the tenant in writing and of the process by which the decision may be appealed.

A relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

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.

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 AHA 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;

- The person currently owes rent or other amounts to the AHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;

- The person has been convicted of manufacturing or producing methamphetamines. If, during the time the live-in aide is residing with the family and she or he is convicted of manufacturing or producing methamphetamines on the premises of an assisted housing unit, the approval of the live-in aide will be withdrawn. "Premises" is defined as the building or complex in which the dwelling unit is located, including common areas and grounds; or

- The person is a convicted sex offender.

Within 14 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, the AHA will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

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

Types of Low-Income Families

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 very-low income family whose annual income does not exceed the higher of 30 percent of the area median income or the federal poverty level for the area, adjusted for family size.

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

Using Income Limits for Eligibility [24 CFR 982.201]

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

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

The AHA will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were issued a voucher by the AHA. A brief interruption in assistance does not constitute a break in the "continuously assisted" definition for Special Admission. A brief interruption is defined only as an interruption that is not under the control of the applicant and does not exceed 30 days in length. For example, continued assistance to residents of a Section 8 project after the HAP contract expires or is terminated for owner breach may cause a short delay in arranging for continued assistance for project residents.

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

The AHA's policy is to allow low-income families eligible for the Veteran Affairs Supportive Housing (VASH) program to be income-eligible under the VASH program.

Using Income Limits for Targeting [24 CFR 982.201]

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

Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction. Also, families housed under the VASH program are not subject to the 75 percent restriction.

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

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

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the AHA'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 that claims their status. However, HUD regulations permit the AHA to request additional documentation of their status, such as a passport.

Family members who declare citizenship or national status will be required to provide documentation for verification purposes.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with AHA 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 AHA 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 165 for a discussion of informal hearing procedures.

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

The AHA will not provide assistance to a family before the verification of at least one family member. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the AHA in accordance with program requirements (24 CFR 5.512(a)).

When the AHA 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 14 calendar days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the AHA. The informal hearing with the AHA 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 15.

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

For new occupants joining the assisted family the AHA 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 AHA 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.

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

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 AND 5.218]

For every family member contending eligible immigration status the family must provide documentation of a valid Social Security Number (SSN). Assistance cannot be provided to a family until all SSN documentation requirements are met. If a family member under the age of six years is added to the household within the six months prior to voucher issuance, the family will have 90 days from the date of admission to the program to obtain an SSN for the newly added child. A detailed discussion of acceptable documentation is provided in Chapter 7. A family may remain on the waiting list without providing the SSN documentation until a request for verification is made by the AHA staff. Once the request is made, the family will be given a deadline by which all verification must be received. Failure of the family to provide any requested verification, including the SSN verification, will result in the withdrawal of the family from the waiting list. The AHA must deny assistance to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.

For a new member who is at least six years of age or under the age of six years and has an assigned SSN to be added to the assisted family, the new member's SSN documentation must be submitted at the time of request or at the time of processing the interim recertification or recertification of family composition that includes the new family member. For the addition of a family member who is under six years of age with no assigned SSN, the family must provide the assigned SSN and supporting verification documents within 90 calendar days of the child being added to the household. If any member of the family obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next interim or regularly scheduled reexamination.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE PG. 14, 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 AHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

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

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

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving 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 AHA 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 AHA will rely on the following definitions [FR 4/10/06, p. 18148 and 9/21/16, p. 64932].

Dependent Child

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

Independent Student

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

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

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

- The individual is 24 years of age or older by December 31 of the award year;
- The individual is an orphan, in foster care, or a ward of the court or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older;
- 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 Armed Forces of the United States (as defined in subsection (c)(1) of HEA) 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 a married individual;
- The individual has legal dependents other than a spouse;
- 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 (as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act) (42 U.S.C. 11431 *et seq.*), or as unaccompanied, at risk of homelessness, and self-supporting, by—
 - a local educational agency homeless liaison, designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act;
 - the director of a program funded under the Runaway and Homeless Youth Act or a designee of the director;
 - the director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (relating to emergency shelter grants) or a designee of the director; or
 - a financial aid administrator; or

- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.
3. The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
 4. The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

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

Institution of Higher Education

The AHA 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

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, etc).

Veteran

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

Determining Student Eligibility

If a student is applying for assistance on his/her own, apart from his/her parents, the housing agency 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 AHA 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.

For any student who is subject to the 5.612 restrictions, the AHA 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 AHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the AHA 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

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

- If the student's parents are married and living together, the AHA will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, the AHA will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, the AHA 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 AHA 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 AHA 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 AHA 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 following eligibility criteria discussed in Parts I and II, must be denied assistance.

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

Forms of Denial [24 CFR 982.552(a)(2); HCV GB ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE PG. 21, 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, or
- Refusing to process a request for or to provide assistance under portability procedures.

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

HUD rules prohibit denial of 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 AHA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Where a member of the family has been a victim of domestic violence, dating violence or stalking, if the applicant otherwise qualifies for assistance or admission. (Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-III.G)
- Any other category protected under state law or HUD guidance including PIH notices.

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

HUD requires the AHA 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 AHA to admit an otherwise-eligible family if the household member has completed a AHA-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).
 - The AHA 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 AHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the AHA, or the person who committed the crime, is no longer living in the household.
- The AHA determines that any household member is currently engaged in the use of illegal drugs. *Currently engaged in* is defined as any use of illegal drugs during the previous six months.

- The AHA 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. In determining reasonable cause, the AHA will consider all credible evidence, including but not limited to, any record of convictions or evictions of household members related to the use of illegal drugs or the abuse of alcohol.
- 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

Criminal Activity [24 CFR 982.553]

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

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 and management staff, and persons performing contract administration functions or other responsibilities on behalf of the AHA (including a AHA employee or a AHA 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:
 - Conviction for drug-related or violent criminal activity within the past 5 years.
 - Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

- The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant or tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity. As part of its investigation, the AHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The AHA may also consider any statements made by witnesses or the applicant or tenant not included in the police report; whether criminal charges were filed; whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately result in an acquittal; and any other evidence relevant to determining whether or not the applicant or tenant engaged in disqualifying activity.
- In making its decision to deny assistance, the AHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the AHA 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 AHA to deny assistance based on the family's previous behavior in assisted housing:

The AHA **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program or the Welfare to Work voucher program.

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

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

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

Any public housing agency has ever terminated assistance under the program for any member of the family within 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 public housing agency in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed any public housing agency for amounts the agency 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 AHA, 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 AHA personnel.

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

3-III.D. SCREENING

Screening for Eligibility

Public housing agencies 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 AHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

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)].

If the AHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the AHA 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 the Veterans Affairs Supportive Housing (VASH) program will be carried out per HUD regulation.

Screening for Suitability as a Tenant [24 CFR 982.307]

The AHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. By regulation, ~~t~~The AHA may opt to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

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

Upon receipt of a Request for Tenancy Approval by the Housing Authority, owners may request and the Authority will provide specific information about the family being considered for tenancy. The Authority will provide the following information:

- The family's current address as provided by the Applicant; and
- The name and address, if known, of the owner/landlord of the family's current and prior places of residence.

The Housing Authority will only respond to specific questions asked by owners and only when the Authority has documentation to confirm the accuracy of the information being provided. Information may be released if contained in the following types of documents;

- Notices of lease violation or termination
- Unit inspections
- Owner claims for unpaid tenant rent and damages
- Records of illegal drug activities as reported in newspapers or other public records
- ~~Tenant rent accounts (for tenants of Housing Authority-managed housing units)~~

Examples of questions that an owner might ask and to which the Authority will respond include:

Q: Has a lease ever been terminated because the prospective tenant failed to pay the rent?

A: Yes. The Housing Authority has a Notice of Termination on file for unpaid rent.

~~Q: Does the tenant unit fail for tenant-caused issues every year?~~

~~A: No. The last HQS inspection passed the first inspection.~~

~~Q: Has another owner ever claimed damages caused by the prospective tenant? If so, did the tenant pay for those damages?~~

~~A: Yes. The Housing Authority has a 1993 Claim for Damages on file, and yes, the tenant has paid for those damages.~~

Questions to which the answers may not be found in the above-mentioned documentation, will be reviewed by the Housing Authority attorney prior to responding.

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

Evidence [24 CFR 982.553(c)]

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

The AHA will consider the following factors when making its decision:

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

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

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

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

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

The AHA 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 [24 CFR 982.552(c)(2)(ii)]

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

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

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

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

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

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the AHA will determine whether the behavior is related to the disability. If so, upon the family's request, the AHA will determine whether alternative measures are appropriate as a reasonable accommodation. The AHA 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

Eligible for Assistance

If the family is eligible for assistance, the AHA will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

If the AHA 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 165, for informal review policies and procedures.

If a criminal record is the basis of the denial, a copy of the record must accompany the notice. In addition, a copy of the criminal record must be provided to the subject of the record [24 CFR 982.553(d)].

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

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

The family will be notified of a decision to deny assistance in writing within 14 calendar days of the determination.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [PUB. L. 113-4]

The Violence Against Women Reauthorization Act of 2013²² (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(1) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

- That an applicant or participant is or has been a victim of domestic violence, dating violence, sexual assault
- or stalking is not an appropriate reason for denial of program assistance or admission.

Notification and Victim Documentation

The AHA acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history that would warrant denial under the AHA's policies. If

the AHA makes a determination to deny admission to an applicant family, the AHA will include in its notice of denial a statement of the protection against denial provided by VAWA and will offer the applicant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking.

Under most circumstances, a survivor need only to self-certify in order to exercise their rights under VAWA, ensuring third-party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe. In cases where both parties are claiming protection under VAWA, AHA can require one of the following elements:

~~The documentation must include one of the following elements:~~

- Form HUD-5382, or ~~a~~A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement, or
- A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking, or
- A record from a Federal, State, local law enforcement agency or court documenting the actual or threatened abuse, or
- At the discretion of a covered housing provider, a statement or other evidence provided by the victim.

The required certification and supporting documentation must be submitted to the AHA within 14 business days after the AHA issues its written request. If the applicant is unable to submit the required documentation, he or she may request an informal review and request an extension, which must be in writing, before the 14 business days' time period expires. If the applicant so requests, the AHA will grant an extension of 14 calendar days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. AHA may extend this time period at its discretion based on circumstances. During the 14-business day period and any granted extensions of that time, no adverse actions, such as an eviction or termination, can be taken against the individual requesting VAWA protection.

If after reviewing the documentation provided by the applicant, the AHA determines the family is eligible for assistance, no informal review will be scheduled and the AHA will proceed with admission of the applicant family.

Perpetrator Removal or Documentation of Rehabilitation

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, the AHA will proceed as above but will require, in addition, either (a) that the perpetrator be removed from the applicant household and not reside in the assisted housing unit or (b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation treatment.

If the family elects the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

AHA Confidentiality Requirements

All information provided to the AHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

~~EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES~~

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.6001(8)], which defines developmental disability in functional terms as:

A severe, chronic disability of a person 5 years of age or older which:

 - Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - Is manifested before the person attains age twenty-two;
 - Is likely to continue indefinitely;
 - Results in substantial functional limitations in three or more of the following areas of major life activity: (i) self-care, (ii) receptive and responsive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; *and*
 - Reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.”
- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" means an educational institution in any State that
- (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate or persons who meet the requirements of section 1091(d) of this title;
 - (2) Is legally authorized within such State to provide a program of education beyond secondary education;
 - (3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;
 - (4) Is a public or other nonprofit institution; and
 - (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.
- (b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" also includes—
- (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
 - (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students individuals who are beyond the age of compulsory school attendance in the State

in which the institution is located or who will be dually or concurrently enrolled in the institution and a secondary school.

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

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

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

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

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

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

(C) Only for the purposes of part C of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part C of subchapter IV of this chapter consistent with the requirements of section 1087b(d) of this title..

(2) Institutions outside the United States

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

(i) except as provided in subparagraph (B)(iii)(IV), in the case of a graduate medical school located outside the United States—

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

(bb) At least 75 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part C of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1, 1992 and continues to operate a clinical training program in at least one State that is approved by that State; or

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

(iii) in the case of a nursing school located outside of the United States—

(I) the nursing school has an agreement with a hospital, or accredited school of nursing (as such terms are defined in section 296 of title 42), located in the United States that requires the students of the nursing school to complete the students' clinical training at such hospital or accredited school of nursing;

(II) the nursing school has an agreement with an accredited school of nursing located in the United States providing that the students graduating from the nursing school located outside of the United States also receive a degree from the accredited school of nursing located in the United States;

(III) the nursing school certifies only Federal Direct Stafford Loans under section 1087e(a)(2)(A) of this title, Federal Direct Unsubsidized Stafford Loans under section 1087e(a)(2)(D) of this title, or Federal Direct PLUS Loans under section 1087e(a)(2)(B) of this title for students attending the institution;

(IV) the nursing school reimburses the Secretary for the cost of any loan defaults for current and former students included in the calculation of the institution's cohort default rate during the previous fiscal year; and

(V) not less than 75 percent of the individuals who were students or graduates of the nursing school, and who took the National Council Licensure Examination for Registered Nurses in the year preceding the year for which the institution is certifying a Federal Direct Stafford Loan under section 1087e(a)(2)(A) of this title, a Federal Direct Unsubsidized Stafford Loan under section 1087e(a)(2)(D) of this title, or a Federal Direct PLUS Loan under section 1087e(a)(2)(B) of this title, received a passing score on such examination.

(B) Advisory panel

(i) In general

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

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

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

(ii) Special rule

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

(iii) Report

(I) In general

Not later than 1 year after August 14, 2008, the advisory panel described in clause (i) shall submit a report to the Secretary and to the authorizing committees recommending eligibility criteria for participation in the loan programs under part C of subchapter IV of this chapter for graduate medical schools that—

(aa) are located outside of the United States;

(bb) do not meet the requirements of subparagraph (A)(i); and

(cc) have a clinical training program approved by a State prior to January 1, 2008.

(II) Recommendations

In the report described in subclause (I), the advisory panel's eligibility criteria shall include recommendations regarding the appropriate levels of performance for graduate medical schools described in such subclause in the following areas:

(aa) Entrance requirements.

(bb) Retention and graduation rates.

(cc) Successful placement of students in United States medical residency programs.

(dd) Passage rate of students on the United States Medical Licensing Examination.

(ee) The extent to which State medical boards have assessed the quality of such school's program of instruction, including through on-site reviews.

(ff) The extent to which graduates of such schools would be unable to practice medicine in 1 or more States, based on the judgment of a State medical board.

(gg) Any areas recommended by the Comptroller General of the United States under section 1101 of the Higher Education Opportunity Act.

(hh) Any additional areas the Secretary may require.

(III) Minimum eligibility requirement

In the recommendations described in subclause (II), the criteria described in subparagraph (A)(i)(I)(bb) shall be a minimum eligibility requirement for a graduate medical school described in subclause (I) to

participate in the loan programs under part C of subchapter IV of this chapter.

(IV) Authority

The Secretary may—

(aa) not earlier than 180 days after the submission of the report described in subclause (I), issue proposed regulations establishing criteria for the eligibility of graduate medical schools described in such subclause to participate in the loan programs under part C of subchapter IV of this chapter based on the recommendations of such report; and

(bb) not earlier than one year after the issuance of proposed regulations under item (aa), issue final regulations establishing such criteria for eligibility.

(C) Failure to release information

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

(D) Special rule

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

(3) Limitations based on course of study or enrollment

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) offers more than 50 percent of such institution's courses by correspondence (excluding courses offered by telecommunications as defined in section 1091(I)(4) 1 of this title), unless the institution is an institution that meets the definition in section 2302(3)(C) of this title;

(B) enrolls 50 percent or more of the institution's students in correspondence courses (excluding courses offered by telecommunications as defined in section 1091(I)(4) 1 of this title), unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year

program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

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

(4) Limitations based on management

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

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

(B) the institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification

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

(6) Loss of eligibility

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

(b) Proprietary institution of higher education

(1) Principal criteria

For the purpose of this section, the term “proprietary institution of higher education” means a school that—

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

(ii)(I) provides a program leading to a baccalaureate degree in liberal arts, and has provided such a program since January 1, 2009; and

(II) is accredited by a recognized regional accrediting agency or association, and has continuously held such accreditation since October 1, 2007, or earlier;

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

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

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

(E) has been in existence for at least 2 years.

(2) Additional institutions

The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in section 1001(a)(1) of this title, admits as regular students individuals—

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) who will be dually or concurrently enrolled in the institution and a secondary school.

(c) Postsecondary vocational institution

(1) Principal criteria

For the purpose of this section, the term “postsecondary vocational institution” means a school that—

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

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

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

(2) Additional institutions

The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in section 1001(a)(1) of this title, admits as regular students individuals—

(A) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

(B) who will be dually or concurrently enrolled in the institution and a secondary school.

Exhibit 3-3 DEFINITIONS

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)

Exhibit 3-3 DEFINITIONS

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2022 (VAWA)

- The term domestic violence includes felony or misdemeanor crimes of violence committed by:
 - A current or former spouse or intimate partner of the victim;
 - A person with whom the victim shares a child in common;
 - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
 - A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
 - 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.

[Note: The term dating violence is no longer a separate term, but is included in the overall "domestic violence" definition given above.]

- The term *stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - - 1) Fear for the person's individual safety or the safety of others; or
 - 2) Suffer substantial emotional distress.
- The term *immediate family member* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
 - Any other person living in the household of that person and related to that person by blood and marriage.

CHAPTER 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

INTRODUCTION

When a family wishes to receive Section 8 HCV assistance including Project-Based Voucher assistance (see Chapter 16 for more information), the family must submit an application that provides the AHA with the information needed to determine the family's eligibility. HUD requires the AHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the AHA must select families from the waiting list in accordance with HUD requirements and AHA policies as stated in the administrative plan and the annual plan.

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

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

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

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

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

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

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes the policies that guide the AHA's efforts to distribute and accept applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes the AHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

4-I.B. APPLYING FOR ASSISTANCE

Notification of Actions

Any family that wishes to receive HCV assistance or to occupy a PBV unit must apply for admission to the program. HUD permits the AHA to determine the format and content of HCV applications, as well as how such applications will be made available to interested families and how the AHA will accept applications.

Applications or pre-applications (collectively called applications) are taken to compile a waiting list. Due to the demand for housing in the Housing Authority's jurisdiction, the Housing Authority may take applications on an open enrollment basis, depending on the length of the waiting list. The Housing Authority also may choose to use a lottery system for adding only a specific number of Applicants to the waiting list. In all ~~wait list~~waiting list outreach efforts, the AHA will specify the application selection method in the outreach material and on the AHA web site.

The application constitutes the basic record of each Applicant for admission. Each Applicant is required to supply the information requested on the application form and to sign the application certifying the accuracy of the information provided. Applications missing one or more of required fields will not be considered complete and will not be placed on a waiting list.

Applicants may be advised that they can be placed on more than one of the AHA's waiting lists, which serve the AHA's ~~property management department and the~~ tenant-based Section 8-Housing Choice Voucher programs and Project-Based Voucher units.

For targeted outreach efforts, if it has been determined that there is a specific need for Applicants for a specific program, or unit size/type, the waiting list may be opened only for Applicants to that program or unit size/type. Applications for any special program will only be accepted from those applicants that meet the criteria for the specific targeted population.

The Housing Authority will inform Applicants about available preferences when the Applicants receive applications and will give Applicants an opportunity to show that they qualify for available preferences. If an applicant submits an otherwise complete application but does not answer a question related to claiming a preference with an affirmative answer, that preference will not be applied. If the applicant later supplies a response or claims a preference, the applicant's record will be updated accordingly. The Housing Authority will not add preferences proactively, in other words, the Housing Authority will not add a preference that a family has not claimed.

Applicants will be notified of the requirement to submit evidence of citizenship or eligible immigration status.

Completed applications will be accepted for all applicants and the Housing Authority will verify the information. The completed application will be date and time stamped upon its return to the Housing Authority to document when the AHA actually received the application. Applications mailed to designated external locations will be retrieved by the AHA and date/time stamped daily. On-line applications will be electronically logged as to date and time received. However, this date and time received will not be applicable to the randomization of the ~~wait list~~waiting list. A lottery will randomize all pre-applications received and only a specified number of applications will be selected at random for addition to the waiting list.

Persons with disabilities who require a reasonable accommodation in completing an application may contact the Housing Authority to make special arrangements. An accommodation cannot bypass the random selection, but is appropriate for assistance with the submission of an application into the random lottery. The Housing Authority uses ~~either its TDD or~~ the California relay system for individuals who are hearing impaired.

The application process involves two phases. The first phase involves placement of the family on the waiting list. This process requires the family to declare any preferences to which they may be entitled and the family's income, household size and any applicable special needs.

In the event two or more Applicants with identical preferences are eligible for placement on the waiting list, their order of placement will be determined by the order in which the family was randomly selected in the lottery process or the date and time of application if a lottery was not conducted.

The second phase is the final determination of eligibility, which takes place when the family nears the top of the waiting list. The Housing Authority will ensure that verification of all preferences, eligibility, suitability and selection factors are current in order to determine the family's final eligibility for admission into the Section 8 assistance program.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8 and HCV—GB ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE PG. 21GB, pp. 4-11—4-13]

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

Limited English Proficiency

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

with limited English proficiency (LEP). The AHA will take steps to ensure its process is accessible to individuals with LEP.

4-I.D. PLACEMENT ON THE WAITING LIST

The AHA must review each complete application received and make a preliminary assessment of the family's eligibility. The AHA must accept applications from families for whom the list is open [24 CFR 982.206(b)(2)] unless there is good cause for not accepting the application (such as denial of assistance because of action or inaction by members of the family) for the grounds stated in the regulations [24 CFR 982.552 and 982.553]. Where the family is determined to be ineligible, the AHA must notify the family in writing [24 CFR 982.201(f)]. E-mail notification can fulfill this requirement. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

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

Ineligible for Placement on the Waiting List

If the AHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the AHA will send written notification of the ineligibility determination within 14 calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 15). E-mail notification can fulfill this requirement.

Eligible for Placement on the Waiting List

When the family is selected for placement on the waiting list, either by acceptance of an application in a general opening of the list or by lottery selection, the Housing Authority will notify the family in writing of placement on the waiting list. E-mail notification can fulfill this requirement.

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

The order of placement within each preference point category will be determined by the order in which the family was randomly selected in the lottery process or the date and time of application if a lottery was not conducted.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

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

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

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

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

A waiting list must contain the following information for each applicant listed as a minimum:

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

In addition to the HCV tenant-based ~~wait list~~waiting list, the AHA maintains project-based waiting lists grouped by common unit types and similar bedroom size. All PBV ~~wait list~~waiting lists will be referred to as "grouped" even if the list only covers one site. The AHA maintains the following waiting lists:

- HCV Program (Section 8 tenant-based programs)
- PBV Program - Elderly Properties (Anne B. Diament Plaza, ~~and~~ Lincoln/Willow, ~~and~~ Littlejohn Commons)
- PBV Program - Supportive Services for Disabled (Jack Capon Villa)
- PBV Program - Supportive Services (Park Alameda Apartments)
- PBV Program - Supportive Services for Homeless (Alameda Point Collaborative Property)
- PBV Program - Single/Family units sized 0 to 2 bedrooms (Shinsei Gardens, Breakers at Bayport, China Clipper, Esperanza, Parrot Village, ~~and~~ Stanford House, The Starling, and Rosefield Village)
- PBV Program - Family units sized 3 and above (Shinsei Gardens, Breakers at Bayport, China Clipper, Esperanza, Parrot Village, ~~and~~ Stanford House, The Starling, and Rosefield Village)
-

If a family applies for assistance under the HCV program, the family will be offered the opportunity to be placed on the waiting list for any project-based voucher or moderate rehabilitation program the AHA operates if:

- 1) The other program's waiting lists are open, and
- 2) The family is qualified for the other programs.

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

The AHA will not merge the HCV waiting list with the waiting list for any other program the AHA operates. The AHA will offer applicants on the HCV waiting list the opportunity to be added to newly created site- or program-specific waiting lists. HCV applicants will be notified of the opportunity. E-mail notification can fulfill this requirement.

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

Closing the Waiting List

The AHA will close a waiting list if it has an adequate pool of families for the applicable program. Generally, this will be when the wait for applicants reaches 12 months for the most current applicants. Alternatively, the AHA will continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

The tenant-based waiting list is always open to an otherwise eligible applicant that:

- is eligible as set forth by a HUD award of funding to the AHA for a targeted category of Section 8 eligible families (see Section 4-III.B. Targeted Funding); or
- is an emancipated youth currently receiving housing assistance from AHA pursuant to HUD's Family Unification Program (FUP) regulations effective 2009 or later who, as determined by the Alameda County Social Services Agency, has successfully graduated from FUP and has been referred to the AHA by Alameda County Social Services;
 1. Eligible FUP graduates must be in good standing with the AHA. Good standing is defined as not in violation of Program regulations, not delinquent in paying rent to owner and does not owe a PHA money.
 2. Eligible FUP graduates must be in good standing with the Alameda County Social Services Agency and have met all case management obligations.
 3. Qualifies for the Terminated Preference (see 4-III.C). Subject to the approval of the Executive Director, FUP eligible graduates will be certified for HCV participation 60 days prior to the end date of the 36-month FUP participation deadline. The Housing Choice Voucher will be effective on the first day following the 36-month FUP participation deadline.

FUP graduates must request HCV participation within thirty (30) days from the end of the 36-month FUP participation deadline. Failure to request HCV participation within this time period may result in denial of assistance.

The project-based voucher grouped site-based waiting lists are always open to an otherwise eligible applicant that:

- is Displaced as defined in Section 4.III.C of this chapter, or
- is a *PBV In-Place Family* living in a Project-Based Voucher contract unit approved by the AHA:

Reopening the Waiting List

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

The AHA will announce the reopening of the waiting list prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

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

- Alameda Journal,
- Local minority media,
- Local government cable access TV channel; and
- AHA web site and office.

Fair Housing and Equal Opportunity

Refer to Chapter 2 of the Administrative Plan for additional information on non-discrimination, policies related to persons with disabilities, improving access to services for persons with limited English proficiency, and the definition of a person with a disability under federal civil rights laws.

4-II.D. FAMILY OUTREACH ~~[HCV GB, PP. 4-2 TO 4-4]~~

The AHA will conduct outreach as necessary to ensure that the AHA has a sufficient number of applicants on the waiting list to use the resources available.

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

The AHA will make a special outreach effort to those groups identified in the Consolidated Plan as most in need of affordable housing.

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

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

AHA outreach efforts will be designed to inform qualified families about the availability of assistance under its programs. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

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

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform the AHA of changes in contact information, including current residence, mailing address, e-mail address and phone number as soon as possible. Failure to notify the AHA of changes in contact information may result in the AHA being unable to contact the family during a ~~wait-list~~waiting list update or to offer assistance. The family may update contact information through the AHA's online applicant portal which can be accessed through the AHA's website www.alamedahsg.org. The family must also report changes in household composition or circumstances and any significant changes in income, which could affect the applicant's eligibility, the size or type of unit needed, or the applicant's priority for admission. All changes must be submitted in writing and the AHA may require this to be done on-line unless waived as a reasonable accommodation.

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

The AHA has established policies to use when removing applicant names from a waiting list.

Purging the Waiting List

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

HUD rules do not describe specific procedures to purge a waiting list. However a purge begins with a standardized mailing or e-mailing to waiting list applicants, requiring a verification of continued interest. Applicants must comply with the instructions in the notice and provide all requested information needed for continued placement on the waiting list, such as address and phone number, household composition, income, and type of preference claimed ~~and minority designation of the head of household~~. The update request will provide a deadline by which the requested form or information must be returned, and clearly explain what will happen if the application-response is not received

by the deadline date. The collection of this form may be in an electronic format at the AHA's prerogative. If no response is received by the deadline, the applicant is removed from the waiting list. If a notice is returned by the post office, the applicant will be removed from the waiting list without further notice.

If a family is removed from the waiting list for failure to respond, the family may be reinstated if they submit a written request within 90 days of the date of the update request letter. If more than 90 days have passed, the Executive Director or his/her designee may reinstate the family if s/he determines the lack of response was due to AHA error, or to circumstances beyond the family's control.

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

Remove from the Waiting List

If at any time an applicant family is on a waiting list, the AHA determines that the family is not eligible for assistance for one or more specific programs (see Chapter 3), the family will be removed from the applicable waiting list or lists. Families will be removed from the HCV tenant-based assistance ~~wait list~~waiting list in direct response to a family's failure to comply with AHA requirements for participation in the HCV Program and because the family fails to meet the eligibility requirements of the HCV program. The AHA must provide reasonable accommodation to allow equal access of individuals with disabilities.

If a family is removed from the waiting list because the AHA has determined the family is not eligible for assistance, a notice will be sent to either the e-mail provided by the family or the family's address of record. The notice will state the reasons the family was removed from the waiting and will inform the family how to request an informal review of the AHA's decision (see Chapter 15) [24 CFR 982.201(f)].

PART III: SELECTION FOR ASSISTANCE

4-III.A. OVERVIEW

As vouchers or PBV units become available, families on a waiting list will be selected for assistance in accordance with the policies described in this part.

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

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

4-III.B. SELECTION AND FUNDING SOURCES

Special Admissions [24 CFR 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing). In these cases, the AHA may admit families that are not on the waiting list, or without considering the family's position on the waiting list. The AHA must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

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

The AHA administers the following types of targeted funding:

- Mainstream Program
- Shelter Plus Care Program
- Bessie Coleman Mod Rehab Program
- Family Unification Program
- Veterans Affairs Supportive Housing (VASH)
- Emergency Housing Vouchers (EHV)
- Stability Vouchers

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the HCV or any of the PBV waiting lists. In the case of a funding shortage, however, PBV assistance will be provided before HCV assistance. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

4-III.C. SELECTION METHOD

The AHA will describe below the method for selecting applicant families from the waiting list, including the system of admission preferences that will be used [982.202(d)] in the following sections.

When a vacancy exists at a PBV site, the AHA will notify the next families on the applicable waiting list. The AHA's letter to the applicants also will state that if the applicant is interested in residing in the vacant PBV unit, that the applicant will not lose her or his place on the AHA's HCV waiting list.

All applicants indicating interest in the PBV unit will be prescreened by the AHA for Section 8 eligibility and referred to the owner in the order in which the screening has been completed. However, if the tenant selection criteria of the owner include screening for credit and criminal background, these procedures may be performed prior to completion of the full eligibility process. If, on the basis of property owners screening for suitability, including, the credit and criminal background screening process, the owner will not offer

tenancy to the applicant, the AHA will not complete the voucher eligibility process and the applicant will be removed from the selected grouped site-based project-based waiting list and sent a notice to this effect.

~~Wait list~~Waiting list referrals to the PBV owner will remain active for consideration for a PBV vacancy for a period of 120 days from the date of selection from the ~~wait list~~waiting list. Referred tenants will be screened by the owner and readied for occupancy. If the owner provides documentation of outreach to all applicants at the same time, fFirst ready, is first referred back to the AHA for eligibility determination and leasing. Any abnormalities in outreach will result in owners being required to process in waiting list order. Readiness is defined to mean having met all of the owner's screening criteria and accepted for tenancy.

In the event that multiple families are made ready for a PBV unit, as a tie breaker for who is assigned the unit, the family who has the highest rank from the referral list of all "ready" families will be processed by the AHA for eligibility determination and offered the available unit.

An owner may continue to work on suitability screening for up to three families from the latest referral list in anticipation of any additional vacancies that may arise during the 120-day referral period. The AHA will also continue the eligibility process for any family made ready by the owner.

If no unit is scheduled to be vacated by an existing tenant or there are no impending vacancies prior to the expiration of the 120-day period, all unassigned referrals will be returned to the project's PBV ~~wait list~~waiting list. If there are vacancies at other PBV units on the same waiting list, the family may be referred to the second owner or returned to the waiting list earlier than the 120-day period.

If the AHA referrals do not provide the PBV owner with a suitable tenant for the unit and the ~~wait list~~waiting list is exhausted, the owner may refer a Section 8 eligible individual or family to the AHA's grouped site-based PBV waiting list if it is open. The referred family must meet the AHA's Section 8 eligibility criteria. See chapter 16 for other options when the ~~wait list~~waiting list is exhausted.

If any PBV ~~wait list~~waiting list has been exhausted, and prior to opening the ~~wait list~~waiting list for targeted outreach, the AHA may query HCV tenants to see if any tenant-based assisted household is interested in a PBV unit. Admission to the PBV program for HCV Tenants will be on a first ready, first served basis. Any additional HCV tenant families interested in PBV units will be informed that the unit(s) has been leased and no further action will be taken on their behalf.

PBV ~~Wait List~~Waiting list applicants shall have priority over all HCV assisted tenants for PBV units.

PBV units approved under the Request for Proposals to build units for VASH-eligible households can only be filled with families referred by the VA as allowed under the VASH program. As these families are referred by the VA, the VA maintains all ~~wait list~~waiting lists for this program.

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

HUD allows housing authorities to establish local preferences, and the AHA has established local preferences, that give priority to serving families that meet those criteria. All local preferences are consistent with the AHA plan and the consolidated plan, and are based on local housing needs and priorities that are documented by generally accepted data sources.

The AHA has established local preferences for the HCV Program, the PBV Program at the Alameda Point Collaborative (APC) Property, the PBV Program at Jack Capon Villa (JCV), the PBV Program at Park Alameda (PA), and the PBV Program at all other sites. These preferences and their point values are:

<u>HCV Program</u>	<u>PBV Program at APC & JCV</u>
FUP Graduates (25 Points)	In Place (37 points)
Displaced (9 points)	Supportive Services (10 pts.)
Special Provisions (8 points)	Displaced (9 points)
Terminated (7 points)	Terminated (7 points)
Residency (6 points)	Residency (6 points)
Family (3 points)	Family (3 points)
Veteran (2 points)	Veteran (2 points)

<u>PBV Program at PA</u>	_____	<u>PBV Program at Other</u>
In Place (37 points)	_____	In Place (37 points)
Disability-specific Supportive Services (10 points)		
Displaced (9 points)	_____	Displaced (9 points)
Terminated (7 points)	_____	Terminated (7 points)
Residency (6 points)	_____	Residency (6 points)
Family (3 points)	_____	Family (3 points)
Veteran (2 points)	_____	Veteran (2 points)

Preference points are aggregated to produce the total preference points for each applicant. Applicants with the same total preference points will then be sorted by the method in which they were selected to be placed on the waiting list (i.e., date and time of application or order of random selection). Applicants that have been randomly selected for placement on a ~~wait list~~waiting list must contact the AHA to notify staff of any change in status. If an applicant submits a change in status that results in a change in preference, the preference must be verified prior to any change in placement on a ~~wait list~~waiting list. Changes to preference points will be applied to the next available ~~wait list~~waiting list pull.

FUP Graduates. Emancipated Youth assisted with Family Unification Program (FUP) funding pursuant to FUP regulations dated 2009 or later who were given rental assistance for a fixed term of thirty-six months who are now aging out of that thirty-six-month period and referred by Alameda County Social Service for assistance under the HCV Program. Admissions are limited to five per calendar month for this preference subject to availability of vouchers.

Displaced. Special Admissions are explained in 4-III.B and qualification for the displaced preference is not qualification for a Special Admission. Applicants eligible for the displaced preference must meet one of the following criteria in order to receive the preference points.

A person or persons whose dwelling in AHA’s jurisdiction (the City of Alameda), as determined by AHA:

- Has been destroyed, rendered uninhabitable or projected to be uninhabitable for at least 180 days from the date of displacement as a result of action or inaction by a landlord in response to a disaster declared by the Federal Government or the State of California—provided that the family was meeting all conditions of occupancy at the time of its occurrence; or
- Has been, or will be, rendered legally or functionally uninhabitable for, at least, 180 days from the date of displacement as a result of redevelopment activity or actions invoking the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Relocation Act) or Section 104(d) of the Housing and Community Development Act (HCD).

At the time of application, an applicant must be displaced within 120 days of application to qualify for this preference. Applicants on a ~~waitlist~~waiting list are eligible for this preference if they experience displacement after the time of application and prior to being housed upon verification as outlined above.

As of the date that AHA selects the applicant for housing assistance from its waiting list, contingent on AHA's verification of the family's application information, is not living in standard, permanent replacement housing.

(1) Standard, permanent replacement housing is defined as housing that is decent, safe, and sanitary according to Housing Quality Standards and State and local housing code that is adequate for the family size according to Housing Quality Standard and State and local code, and that the family is occupying pursuant to a written or oral lease or occupancy agreement.

(2) Standard, permanent replacement housing does not include transient facilities, hotels, motels, temporary shelters and, in case of Victims of Domestic Violence, housing occupied by the individual who engages in such violence. It does not include any individual imprisoned or detained pursuant to State Law or an Act of Congress. Shared housing with family or friends is not considered temporary and is considered standard, permanent replacement housing.

Applicants on any waiting list who claim a preference for being displaced pursuant to the definition above must present third-party evidence of displacement at the time when selected for certification. Failure to present documentation to validate displacement will result in the loss of preference and return to the waiting list.

In Place. Eligible residents who reside in units at the time of the PBV property owner's proposal selection date for Project-based assistance.

Special Provisions. There are two categories of Special Provisions Applicants:

- Applicants who are residents residing in units owned and/or managed by the AHA and who are overhoused or underhoused and for whom there is no appropriate unit in the complex where they live and only with the approval of the Executive Director.
- Family Unification Program (FUP)-eligible families and FUP-eligible youths to which the AHA intends to issue FUP vouchers with available funding provided by HUD for this purpose. [Note: This previously was a separate preference.]

Supportive Services at APC is defined as: Families with a person or more than one person with disabilities ~~referred-offered~~by at Alameda Point Collaborative (APC) in need of supportive services for the homeless or persons/families at risk of homelessness.

Supportive Services at JCV is defined as: Families with a person or more than one person with disabilities in need of the supportive services offered at Jack Capon Villa.

Voluntary, Disability-Specific Supportive Services at Park Alameda is defined as: Persons with disabilities eligible for the disability-specific supportive services offered by Park Alameda under a Ryan White grant from Alameda County. Participation in these services

are voluntary, but the family will receive the preference points for being eligible for the services. This preference is allowable under HOTMA regulations. This preference will be limited to the 9 units at Park Alameda specified under the HAP contract as excepted units because the units are specified for families with members with disabilities.

Terminated. Section 8 participants who have been terminated by AHA due to overleasing or lack of federal funding. At the time a participant is terminated due to overleasing or lack of federal funding, that person's name will automatically be placed on the waiting list and given the appropriate preference. If more than one family is terminated under the same action, the families will be placed on the AHA's ~~waitlist~~waiting list in a randomly selected order.

Residency. This residency preference is limited to the jurisdictional boundaries of the city of Alameda. Use of the residency preference will not have the purpose or effect of delaying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family. Applicants who live or work in Alameda, or applicant families including at least one adult member who lives or works in Alameda, at the time of application or during the time on a ~~wait list~~waiting list qualify for this preference. For homeless applicants, this preference will apply if the applicant had been living in Alameda prior to becoming homeless.

Family. A family including a member 62 years of age or older or a person with disabilities. This revised definition is effective for families whose application was received after November 20, 2014.

Veteran. A member of the military, a veteran who was discharged or released under conditions other than dishonorable, or a surviving spouse (as defined by the Department of Veteran Affairs.)_Providing these preference points for a veteran, preference is given to veterans within each preference category for which the veteran is eligible.

At the time of initial application, the applicant certifies as to whether or not it is eligible for a preference, and the AHA will place the applicant on the waiting list according to the preference claimed. Preferences which are critical for proper placement on a particular waiting list may be verified prior to placement on the waiting list and again at time of selection. All other preferences will be verified at the time of selection, and when a change in status is submitted, based on the family's current circumstances. Before the family receives assistance the AHA must verify the family's eligibility for the preference based on current circumstances. If upon verification the AHA determines that the family does not qualify for the preference claimed, the family does not receive ~~de~~the preference. In this situation, the AHA will notify the applicant in writing that they do not qualify for the preference and will be returned to the waiting list with an update to the applicant record.

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

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

this requirement is met, AHA may skip non-ELI families on the waiting list in order to select an ELI family.

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

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

The admission of applicants who qualify for the absolute In Place preference is not subject to income-targeting [24 CFR 983.251(b)(2)].

Order of Selection

For families placed on a ~~wait list~~[waiting list](#), under the AHA system of preferences, the AHA will select families with the highest number of preference points and then by the random selection process [24 CFR 982.207(c)] or date/time of application as specified in the notice of ~~wait list~~[waiting list](#) opening. The AHA will select families from the targeted funding or selection preferences for which they qualify, and in accordance with the AHA’s hierarchy of preferences [24 CFR 982.204(b) and (e)]. Based on the pre-determined methodology at the time of application, within each targeted funding or aggregate preference total, families will either be selected from the waiting list on a first-come, first-served basis according to the date and time their complete application is received by the AHA or by their randomly selected order at the time of application. When there is a funding shortage, PBV units will be filled prior to issuance of new vouchers under the HCV program.

The AHA will maintain documentation as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the AHA does not have to ask higher placed families each time targeted selections are made.

For grouped site-based ~~wait list~~[waiting lists](#) (i.e., PBV), applicants will be removed from the ~~wait list~~[waiting list](#) if they are non-responsive to or refuse an offer of a unit for sites housed under the ~~wait list~~[waiting list](#). Exceptions will be considered on a case by case basis by the Executive Director or designee for various reasons to include: lease commitment issues, sequestered jurors, medical emergencies that prevent moving at that time, or death of a family member. All requests for exceptions must be made in writing.

4-III.D. NOTIFICATION OF SELECTION

When a family/applicant has been selected from the waiting list, the AHA must notify the family/applicant.

The AHA will notify the family/applicant by first class mail or e-mail when it is selected from the waiting list. The family/applicant will be sent a packet of forms [or a link to the packet on Rent Café](#) to be completed and returned by a specified date.

If a notification letter is returned to the AHA, the family/applicant will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record.

If the family/applicant does not respond to the selection notification letter, —the family/applicant will be removed from the waiting list from which they were selected. A notice of denial (see Chapter 3) will be sent to the family's address of record.

4-III.E. THE APPLICATION INTERVIEW

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

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

Families selected from the waiting list, who have returned the required documentation, will be scheduled for an eligibility interview. The AHA will notify the family by first class mail or e-mail with the following information:

- Date, time and location of the scheduled application interview, including any procedures for rescheduling the interview;
- Who is required to attend the interview;
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation; and
- Any other documents and information that should be brought to the interview.

All adults in the household must attend the initial certification interview unless there is an extenuating circumstance and approval has been received from AHA. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the AHA.

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity.) If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

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

Any required documents or information that the family is unable to provide at the interview must be provided as soon as possible. (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status.) If the family is unable to obtain the information or materials timely (normally within 14 calendar days), the family may request an

extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3). Families will be processed in the order that the AHA receives all documents from the family and the file is complete at this stage. For families whose documents are received at the same time, the original position number will break ties. The AHA will not delay processing other complete files if the family has not provided all required documents or information.

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

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

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

4-III.F. COMPLETING THE APPLICATION PROCESS

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

If the AHA determines that the family is ineligible, the AHA will send written notification of the ineligibility determination within 14 calendar days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review (Chapter 15).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to the ~~wait list~~waiting list with original time/date or randomized position and revised preferences, if appropriate. The AHA will notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

CHAPTER 5

BRIEFINGS AND VOUCHER ISSUANCE

INTRODUCTION

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

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

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

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

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

5-I.A. OVERVIEW

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

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

The AHA must give the family a briefing, which can be conducted in-person or remotely, and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the AHA must ensure effective communication in accordance with Section 504 requirements (Section

504 of the Rehabilitation Act of 1973), and ensure that the briefing site or virtual platform is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

REMOTE BRIEFINGS.

The AHA will ensure briefings conducted remotely provide 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. AHA 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 remote briefing process.

Briefings will be conducted in group meetings.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the AHA may approve another adult family member to attend the briefing.

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

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

Notification and Attendance

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

If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record.

Applicants who fail to attend a scheduled briefing will be removed from the waiting list unless the applicant can show good cause. Good cause is defined as a disability or emergency family circumstances where the applicant requests the AHA maintain the applicant's place on the waiting until the next briefing, not to exceed six months, as a reasonable accommodation and only if requested prior to the briefing. Not attending a briefing because of incarceration is not an acceptable reason to hold an applicant's place on the waiting list and will result in removal from the waiting list. (See Chapter 3).

Oral and Remote Briefing [24 CFR 982.301(a), PIH Notice 2020-32]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the AHA's jurisdiction;

- For families eligible under portability, an explanation of portability. The AHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations;
- When AHA-owned units are available for lease, the AHA will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a AHA-owned unit; and
- VAWA Notice of Occupancy Rights. Provides protections for Housing Choice Voucher and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, and the AHA's policies on any extensions or suspensions of the term. If the AHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the AHA determines the payment standard for a family, how the AHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the AHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the AHA jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the AHA policy on providing information about families to prospective owners.
- The AHA subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.

- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the AHA.
- The family obligations under the program, ~~including any obligations of a welfare-to-work family.~~

VAWA (Violence Against Women Act) Notice of Occupancy Rights.

- The grounds on which the AHA may terminate assistance for a participant family because of family action or failure to act.
- AHA informal hearing procedures including when the AHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

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

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- Information about the characteristics of these areas including job opportunities, schools, transportation and other services.
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs including names, addresses, and telephone numbers.

Additional Items to be Included in the Briefing Packet

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB [Housing Search and Leasing Pg. 8-p. 8-7](#)].

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

- When AHA-owned units are available for lease, a written statement that the family has the right to select any eligible unit available for lease, and is not obligated to choose an AHA-owned unit.
- Information on how to fill out and file a housing discrimination complaint form.
- The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

5-I.C. FAMILY OBLIGATIONS

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

Time Frames for Reporting Changes Required By Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the AHA of a change, notifying the AHA of the request or change within 14 calendar days is considered prompt notice.

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

Family Obligations [24 CFR 982.551]

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

- The family must supply any information that the AHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the AHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- The family must allow the AHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease. The AHA will consider the following: written notice from owner to the AHA and family of the serious/repeated lease violation, police reports, arrest logs, neighbor complaints or other third-party information. Violations can include: non-payment of rent, failure to allow owner to make necessary repairs, or disturbing the quiet and peaceful enjoyment of the premises by others.
- The family must notify the AHA and the owner before moving out of the unit or terminating the lease. The family must live in the unit for the term of the lease and, then, the family can move after giving proper notice to the owner with a copy to AHA. Alternatively, the family and owner can sign a mutual rescission of the lease.
- The family must promptly give the AHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the AHA. The family must promptly* notify the AHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request AHA approval to add any other family member as an occupant of the unit. The request to add a family member

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

- The family must promptly notify the AHA in writing if any family household member no longer lives in the unit.
- If the AHA has given approval, a foster child or a live-in aide may reside in the unit. The AHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when AHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by the AHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the AHA when the family is absent from the unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 3060 calendar days. Written notice must be provided to the AHA at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family Household members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and AHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and AHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the AHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

* Promptly here is defined differently for families participating in the MTW program than families not participating in the MTW program. See Chapter 11 for reporting requirements.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

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

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

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

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

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the AHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;

- Unless a live-in aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the AHA subsidy standards.
- The AHA will assign one bedroom for each two persons within the household, except in the following circumstances: that a head of household with no spouse/co-head will be allocated one bedroom. Examples of this are:
 - A household of just a head and co-head/spouse would receive either zero- or one-bedroom subsidy standard.
 - A household of a head of household and other adult would receive a 2-bedroom subsidy.
 - A household with a head, co-head/spouse, and two minor children would receive a 2-bedroom subsidy.
 - A household with a head, other adult, and two minor children would receive a 3-bedroom subsidy.

~~The subsidy standard provides one bedroom for every two persons, except for: A family with a Head of Household and no spouse/domestic partner/significant other would be allocated a subsidy size in the following manner:~~

Family Size	Voucher Size
1	1 Bedroom
2	2 Bedrooms
3	2 Bedrooms
4	3 Bedrooms
5	3 Bedrooms
6	4 Bedrooms
7	4 Bedrooms
8	5 Bedrooms
9	5 Bedrooms

~~A family with a Head of Household and a spouse/domestic partner/significant other would be allocated a subsidy size in the following manner:~~

Family Size	Voucher Size
2	1 Bedroom
3	2 Bedrooms
4	2 Bedrooms
5	3 Bedrooms

Family Size	Voucher Size
6	3 Bedrooms
7	4 Bedrooms
8	4 Bedrooms
9	5 Bedrooms
10	5 Bedrooms

- For verified reasons of health/reasonable accommodation, an additional bedroom subsidy may be provided for: a live-in aide, medical equipment which requires a separate room because of size or function, or a family member who must have a separate bedroom due to other serious medical condition.

An unborn child of the Applicant or a child expected to be adopted or for whom legal custody is to be granted, will be included when determining the proper subsidy size.

Single person households will receive one-bedroom vouchers.

Overcrowded Units

If the Housing Authority determines that an occupied unit no longer meets Housing Quality Standards (i.e., no more than two persons per living/sleeping room) because of a change in family size or composition, the Housing Authority will issue the Participant a new Housing Choice Voucher.

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member’s disability, medical or health condition

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

The AHA will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, disability, or relationship of family members or other personal circumstances upon verified need from a knowledgeable professional. See Chapter 16 for a PBV exception to the payment standard for under-housed families.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source, unless the disability and the disability-related request for accommodation is readily apparent or otherwise known.

The AHA will notify the family of its determination within 14 calendar days of receiving the family's request. This notification may be delayed if the knowledgeable professional does not timely respond. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5-II.D. VOUCHER ISSUANCE AND RESCISSION [24 CFR 982.302] FOR HOUSING CHOICE VOUCHER PROGRAM

Voucher Issuance

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the AHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10. Some programs like the Moderate Rehabilitation Program do not receive vouchers.

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

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

Vouchers will be issued to eligible applicants at the mandatory briefing.

The AHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the AHA must wait until it has adequate funds before it calls another family from the list [HCV GB- Housing Search and Leasing pg. 15p-8-10]. If the AHA determines that there is insufficient funding after a voucher has been issued, the AHA may rescind the voucher and place the affected family back on the waiting list.

Voucher Rescission

If, due to budgetary constraints, the AHA must rescind vouchers that have already been issued to families, the AHA will do so according to the instructions under each of the categories below. The AHA will first rescind vouchers that fall under Category 1. Vouchers in Category 2 will only be rescinded after all vouchers under Category 1 have been rescinded.

Category 1: Vouchers issued to new admissions to the HCV program for which a Request for Tenancy Approval (RFTA) and proposed lease have not been submitted to the AHA.

Vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.

Category 2: Vouchers issued to new admissions to the HCV program for which a ~~Request for Tenancy Approval~~RFTA and proposed lease have been submitted to the AHA. Vouchers will be rescinded in order of the date and time the RFTA was submitted to the AHA, starting with the most recently submitted requests.

Families who have their voucher rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again available, families will be selected from the waiting list in accordance with AHA policies described in Chapter 4.

Families who are continuing participants in the HCV program who have vouchers because they are moving will not have their vouchers rescinded unless the family is terminated due to the date of admission to the program (see chapter 12).

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

Voucher Term [24 CFR 982.303]

The initial term of a voucher will be 180 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

The family must submit a Request for Tenancy Approval and proposed lease within the time period unless the AHA grants an extension.

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

The AHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. In some cases, voucher extensions may require the family to submit new verifications for income, assets, or deductions.

The AHA will approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose. The family will be notified in writing of the AHA's decision to approve or deny an extension. The AHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

-The decision to allow additional extensions beyond 180 days must be approved by the Executive Director in cases of new applicants. The family must demonstrate that its due diligence in trying to locate a unit was met by providing the AHA a listing of all units looked at and all contacts with landlords made before any extensions will be considered. The AHA must also be able to document that the market has higher rents than voucher holders can afford or there ~~are~~is a shortage of rental units available.

For participants transferring units, 24 CFR 982.312 only allows for a family to be absent from a unit for 180 consecutive days; therefore, the AHA will only allow extensions to this time unless in case of a reasonable accommodation due to a disability.

The AHA will allow for voucher extensions for the occurrence of domestic violence, dating violence, sexual assault or stalking which leads to the break-up of the assisted family, as per HUD Notice PIH-2017-08.

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

~~At its discretion, a AHA may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RFTA) during the voucher term. The AHA must provide for suspension of the initial or any extended term of the voucher from the date that the family submits a RFTA until the date the AHA notifies the family in writing whether the request has been approved or denied.~~ “Suspension” means stopping the clock on a family’s voucher term from the time a family submits the RFTA until the time the AHA approves or denies the request [24 CFR 982.4]. The AHA’s determination not to ~~suspend~~ extend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

~~When a RFTA and a proposed lease are received by the AHA, the term of the voucher will be suspended while AHA processes the request.~~

When the AHA denies a request for tenancy, the family will be notified immediately that the clock on the voucher term has restarted. The notice will include the new expiration date of the voucher.

Expiration of Voucher Term

Once a family’s housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the AHA will require that the family reapply when the waiting list is open subject to the notice of the selection of applicants. ~~In most cases the AHA does a random selection, so submitting an application does not guarantee placement on a waiting list.~~

Within 14 calendar days after the expiration of the voucher term or any extension, the AHA will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

CHAPTER 6

INCOME AND SUBSIDY DETERMINATIONS

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

INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the AHA's subsidy. The AHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations or an approved MTW activity.- Chapter 1 contains information on which families are included in MTW activities and which families are excluded from MTW activities. This chapter describes HUD regulations and AHA policies related to these topics in three parts as follows:

Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and AHA policies for calculating annual income are found in Part I. This part also includes some information on approved MTW activities that affect annual income.

Part II: Adjusted Income. Once annual income has been established HUD regulations require the AHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and AHA policies for calculating adjusted income are found in Part II.

Part III: Calculating Family Share and AHA Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining AHA subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW

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

5.609 Annual income.

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

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

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

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

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

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

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

Summary of Income Included and Excluded by Person:

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

Temporarily Absent Family Members

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

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

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 AHA indicating that the student has established a separate household or the family declares that the student has established a separate household. The student's status will be re-evaluated each year at the time of the family's regular annual re-examination.

Absences Due to Placement in Foster Care

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

If a child has been placed in foster care, the AHA 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. Families must report when temporary absences become permanent.

Absent Head, Spouse, or Cohead

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.

In the case where the household member is the spouse, legal separation, filing for dissolution of marriage, annulment, or other verification acceptable to the AHA will be sufficient proof that the family member is no longer a member of the household.

Family Members Permanently Confined for Medical Reasons

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

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

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

All family members, including single member families cannot be out of the unit for more than 180 days [24 CFR 982.312]. Reasonable accommodation can be requested to waive this regulation; however, the AHA does not have the authority to waive it, so the request and all documentation must be submitted by the AHA to HUD for review. The family must cooperate in providing all requested information and documents for AHA to submit.

Joint Custody of Dependents

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 AHA 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.

6-I.C. ANTICIPATING ANNUAL INCOME

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

Basis of Annual Income Projection

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

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

When the AHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the AHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income. Anytime current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to the AHA to show why the historic pattern does not represent the family’s anticipated income.

Using Up-Front Income Verification (UIV) to Project Income

HUD strongly recommends the use of up-front income verification (UIV). UIV is “the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals” [~~VG, p. 7~~ PIH Notice 2018-18].

HUD allows PHAs to use UIV information in conjunction with family-provided documents to anticipate income. The AHA may not use quarterly EIV wage (or unemployment