Housing Authority
of the
City of Alameda

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701 Atlantic Avenue • Alameda, California 94501-2161

To: Honorable Chair and Members of the Board of Commissioners

From: Sepideh Kiumarsi, Senior Management Analyst

Date: April 16, 2025

Re: Approve Changes to the Administrative Plan.

BACKGROUND

The Administrative Plan for the Housing Choice Voucher Program (HCV) for the Housing Authority of the City of Alameda (AHA) establishes the policies and procedures whereby AHA will administer HCV tenant-based and project-based rental assistance programs under contract to Department of Housing and Urban Development (HUD) and in accordance with applicable statutes, HUD regulations, and state and local law.

The Housing Authority of the City of Alameda (AHA) was accepted into the Moving to Work (MTW) Demonstration Expansion under the Landlord Incentives Cohort to test the effectiveness of landlord incentives. AHA is required to comply with the MTW Operations Notice while participating in the MTW Demonstration Program. Flexibilities in regulation granted as part of approved MTW activities apply to the Housing Choice Voucher and Project-Based Voucher program including Mainstream, Near Elderly Disabled, and Family Unification Program. AHA must specifically request HUD to extend flexibilities as part of approved MTW activities to the Veteran Affairs Supportive Housing (VASH) program, the Emergency Housing Voucher (EHV) program, and the Stability Voucher (SV) Program.

DISCUSSION

On November 29, 2023, AHA received approval from HUD to be able to increase the payment standard up to 150% of Fair Market Rents (FMR) for its VASH, EHV, and SV programs as part of a previously approved MTW activity.

On February 19, 2025, AHA received approval from HUD to extend the following MTW flexibilities to EHV, SV, and VASH programs (please see Attachment A for a copy of this letter):

1. Self-certification of assets (certain provisions of Section 8(o)(5) of the 1937 Act; 24 CFR § 982.516 (a)(3)). Families may self-certify assets of up to $50,000 provided that the asset does not earn any income.

2. Alternative inspection schedule (24 CFR § 982.405(b)): A risk-based triennial inspection model for tenant-based units such that units passing their first triennial inspections remain on the triennial schedule. Units that fail their first triennial inspection revert to an annual schedule.
3. Exclusion of guaranteed income payments (24 CFR § 5.609(a)(1)). Payments received by families under the City of Alameda's Guaranteed Basic Income Pilot Program are excluded from annual income calculations.

Additionally, AHA received approval from HUD to extend the following MTW flexibility to EHV and SV programs:

1. Pre-qualifying inspections (certain provisions of Section 8(o)(8) of 1937 Housing Act; 24 CFR § 982.305(b)(2)). Initial inspections may be conducted up to 90 days prior to lease-up. The unit must pass housing quality standards (HQS) before the housing assistance payment (HAP) contract effective date.

In the letter, HUD noted that in regard to the pre-inspection of units, the revised HUD-VASH Operating Requirements permits Public Housing Authorities to pre-inspect units up to 90 days prior to the date of the Request for Tenancy Approval (RFTA). While the MTW pre-qualifying inspection flexibility is not needed for HUD-VASH, AHA is choosing to pre-inspect units up to 90 days prior to the date of the RFTA for units in the VASH program.

Lastly, in response to HUD's concerns regarding the conditions for which a household may request a hardship under AHA's approved MTW Alternative Reexamination Schedule activity, AHA has revised its hardship policy to align with requirements in the MTW Operations Notice.

As such, this Administrative Plan revision incorporates the HUD-approved flexibilities described above.

This Administrative Plan revision also incorporates revisions to certain policies not related to MTW as follows:

1. Updating the list of what HUD requires to be included in the Administrative Plan;
2. Updating the PBV vacancy loss payments policy to specify a timeline in which owners must request a vacancy loss payment;
3. Reducing the time to process an interim from 45 days to 30 days;
4. Removing the EHV payment standard table which is date-sensitive and instead referring individuals to the website for the most current version;
5. Including language regarding compliance with the Fostering Stable Housing Opportunities HUD Notice (2022) for the Family Unification Program; and
6. Updating the table of contents to reflect the changes above.

FISCAL IMPACT

AHA expects decreased operational costs in relation to the reduced frequency of inspections and reduced staff time for reviewing verification of assets under $50,000 as a result of applying the alternative inspection schedule and self-certification of assets flexibilities to the EHV, SV, and VASH programs, respectively.

Due to the limited nature, both in terms of the duration and extent of program participants, of the income exclusions, AHA expects a slight increase in costs as a result of applying the exclusion of guaranteed income payments to the EHV, SV, and VASH programs.

AHA expects that applying pre-qualifying inspections to the VASH, EHV, and SV programs will allow households to be leased up more quickly. Similarly, AHA expects PBV vacancy loss payments to be processed more timely as a result of the proposed timeline for owner requests for these payments.

CEQA

Not Applicable.

RECOMMENDATION

Approve Changes to the Administrative Plan.

ATTACHMENTS

1. Attachment A - CA062 MTW EHV-SV-VASH Flexibilities Letter
2. Attachment B - DRAFT Administrative Plan Revisions 2025-02
3. Attachment C - April 2025 Administrative Plan Revisions Presentation

Respectfully submitted,

Sepideh Kiumarsi

Sepideh Kiumarsi, Senior Management Analyst

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

February 19, 2025

Ms. Vanessa Cooper
Executive Director
Housing Authority of the City of Alameda
701 Atlantic Avenue
Alameda, CA 94501-2161

Dear Ms. Cooper:

This correspondence responds to your agency's letter regarding the extension of Moving to Work (MTW) flexibilities to the Emergency Housing Voucher (EHV), Stability Voucher (SV) and Department of Housing and Urban Development-Veterans Affairs Supportive Housing (HUD-VASH) programs.

The Housing Authority of the City of Alameda (AHA-CA062) requested the following flexibilities be applied to the administration of EHVs, SVs, and HUD-VASH:

- Alternative reexamination schedule (Certain provisions of Section 8(o)(5) of the 1937 Act; Title 24 Code of Federal Regulations CFR § 982.516 (a)(1)). Households with any income will be on a triennial reexamination schedule, while zero-income households will remain on an annual schedule. Households are limited to one interim reexamination per calendar year if the household gross income has decreased by 10 percent or more. A family may submit a hardship request if 1) the family's income decreases to $0, 2) the decrease is anticipated to be longer than 30 days, or 3) the family faces eviction.
- Self-certification of assets (Certain provisions of Section 8(o)(5) of the 1937 Act; 24 CFR § 982.516 (a)(3)). Families may self-certify assets of up to $50,000 provided that the asset does not earn any income.
- Pre-qualifying inspections (Certain provisions of Section 8(o)(8) of 1937 Housing Act; 24 CFR § 982.305(b)(2)). Initial inspections may be conducted up to 90 days prior to lease-up. The unit must pass housing quality standards (HQS) before the housing assistance payment (HAP) contract effective date.
- Alternative inspection schedule (24 CFR § 982.405(b)): A risk-based triennial inspection model for tenant-based units such that units passing their first triennial inspections remain on the triennial schedule. Units that fail their first triennial inspection revert to an annual schedule.
- Exclusion of guaranteed income payments (24 CFR § 5.609(a)(1)). Payments received by families under the City of Alameda's Guaranteed Basic Income Pilot Program are excluded in annual income calculations.

The AHA also requested the following flexibilities be applied to the administration of HUD-VASH:

- Elimination of Project-Based Voucher (PBV) Selection Process (24 CFR § 983.51). Allows the AHA to award PBVs to a property owned by a single-asset entity of the AHA without engaging in a selection process.
- PBV Right Sizing (24 CFR § 983.260(a)(1), 24 CFR § 983.260(b)(1)(i), and 24 CFR § 983.260(b)(2)(i)). Allows underhoused families to remain in smaller PBV units if the unit is not overcrowded and the underhoused family wishes to remain in the unit.
- PBV Contract Rent Increases (24 CFR § 983.302(b)(2)). All rent increases for PBV units are increased once a year at the beginning of the AHA's fiscal year, rather than at the contract's anniversary date.

Application of Flexibilities to Emergency Housing Vouchers

Section 10 of Notice PIH 2021-15 states that "MTW agencies that administer EHVs are bound by the terms and conditions of this Notice. As discussed above in Section 9, all Housing Choice Voucher (HCV) statutory and regulatory requirements and HUD directives are applicable to EHVs unless waived by this Notice." EHV funding, including HAP and administrative fees, is not eligible for fungibility and must only be used for EHV eligibility activities and to assist EHV eligible families. While HCV administrative fees can be used for EHV, EHV HAP and administrative fee funding may not be used for regular HCV or special purpose voucher program expenses.

However, per the American Rescue Plan Act, "the Secretary may waive or specify alternative requirements for any H. R. 1319—57 provision of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or regulation applicable to such statute other than requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that the waiver or alternative requirement is necessary to expedite or facilitate the use of amounts made available in this section." As stated in Section 10 of Public and Indian Housing (PIH) Notice 2021-15, MTW agencies may request approval from the Department to administer EHVs in accordance with the HCV programmatic flexibilities approved under the public housing agency (PHA's) Annual MTW Plan or MTW Supplement to the PHA Plan, as permitted by its MTW Agreement or the MTW Operations Notice, provided that HUD determines that the requested flexibilities do not directly conflict with an EHV waiver and would not have a detrimental impact on EHV families.

In reviewing the details of your request, the Department has determined that the following requested flexibilities do not directly conflict with an EHV waiver and would not have a negative impact on EHV families. Therefore, HUD approves the AHA's request for the following flexibilities:

- Self-certification of assets (Certain provisions of Section 8(o)(5) of the 1937 Act; 24 CFR § 982.516 (a)(3)). Families may self-certify assets of up to $50,000 provided that the asset does not earn any income.
- Pre-qualifying inspections (Certain provisions of Section 8(o)(8) of 1937 Housing Act; 24 CFR § 982.305(b)(2)). Initial inspections may be conducted up to 90 days

prior to lease-up. The unit must pass housing quality standards (HQS) before the housing assistance payment (HAP) contract effective date.

- Alternative inspection schedule (24 CFR § 982.405(b)): A risk-based triennial inspection model for tenant-based units such that units passing their first triennial inspections remain on the triennial schedule. Units that fail their first triennial inspection revert to an annual schedule.
- Exclusion of guaranteed income payments (24 CFR § 5.609(a)(1)). Payments received by families under the City of Alameda's Guaranteed Basic Income Pilot Program are excluded in annual income calculations.

Please note that under the Housing Opportunity Through Modernization Act (HOTMA) of 2016, families may self-certify that the value of their net family assets does not exceed $50,000 (24 CFR § 5.618(b)). Therefore, the AHA's self-certification of assets flexibility will not be required once PHAs can fully implement HOTMA changes in the Housing Information Portal (HIP).

Your request to apply the following flexibility to EHV is denied after determining that it would have a detrimental impact on EHV participants:

- Alternative reexamination schedule (Certain provisions of Section 8(o)(5) of the 1937 Act; Title 24 Code of Federal Regulations CFR § 982.516 (a)(1)). Households with any income will be on a triennial reexamination schedule, while zero-income households will remain on an annual schedule. Households are limited to one interim reexamination per calendar year if the household gross income has decreased by 10 percent or more. A family may submit a hardship request if 1) the family's income decreases to $0, 2) the decrease is anticipated to be longer than 30 days, or 3) the family faces eviction.

Per the MTW Operations Notice, MTW expansion PHAs must establish a financial hardship policy that includes the following situations: 1) The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings other assistance, 2) The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items, and 3) Such other situations and factors determined by the agency to be appropriate. The AHA hardship policy does not address these situations and therefore may pose harm to families who are facing one of the above situations but do not qualify for a hardship based on the AHA's policy. Please consult with the MTW office to ensure that the AHA's policy complies with the hardship policy requirements as stated in the MTW Operations Notice.

Application of Flexibilities to Stability Vouchers

Section 14 of Notice PIH 2022-24 notes that, "MTW agencies that administer SVs are bound by the terms and conditions of this notice. As discussed above in Section 10, all HCV statutory and regulatory requirements and the Department directives are applicable to SVs unless waived by this notice. However, MTW agencies may request approval from HUD's Office of Housing Voucher Programs (OHVP) to administer SVs in accordance with the HCV

programmatic flexibilities approved under PHA's Annual MTW Plan or MTW Supplement to the PHA Plan, as permitted by its MTW Agreement or the MTW Operations Notice. The OHVP may approve the MTW PHA's request provided it determines the requested MTW flexibility is not in direct conflict with an SV waiver or alternative requirement and its application would not have a detrimental impact on SV families."

In reviewing the details of your request, the Department has determined that the following requested flexibilities do not directly conflict with an SV waiver and would not have a negative impact on SV families. Therefore, HUD approves the AHA's request for the following flexibilities:

- Self-certification of assets (Certain provisions of Section 8(o)(5) of the 1937 Act; 24 CFR § 982.516 (a)(3)). Families may self-certify assets of up to $50,000 provided that the asset does not earn any income.
- Pre-qualifying inspections (Certain provisions of Section 8(o)(8) of 1937 Housing Act; 24 CFR § 982.305(b)(2)). Initial inspections may be conducted up to 90 days prior to lease-up. The unit must pass housing quality standards (HQS) before the housing assistance payment (HAP) contract effective date.
- Alternative inspection schedule (24 CFR § 982.405(b)): A risk-based triennial inspection model for tenant-based units such that units passing their first triennial inspections remain on the triennial schedule. Units that fail their first triennial inspection revert to an annual schedule.
- Exclusion of guaranteed income payments (24 CFR § 5.609(a)(1)). Payments received by families under the City of Alameda's Guaranteed Basic Income Pilot Program are excluded in annual income calculations.

Your request to apply the following flexibility to SVs is denied after determining that it would have a detrimental impact on SV participants:

- Alternative reexamination schedule (Certain provisions of Section 8(o)(5) of the 1937 Act; Title 24 Code of Federal Regulations CFR § 982.516 (a)(1)). Households with any income will be on a triennial reexamination schedule, while zero-income households will remain on an annual schedule. Households are limited to one interim reexamination per calendar year if the household gross income has decreased by 10 percent or more. A family may submit a hardship request if 1) the family's income decreases to $0, 2) the decrease is anticipated to be longer than 30 days, or 3) the family faces eviction.

Per the MTW Operations Notice, MTW expansion PHAs must establish a financial hardship policy that includes the following situations: 1) The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings other assistance, 2) The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items, and 3) Such other situations and factors determined by the agency to be appropriate. The AHA hardship policy does not address these situations and therefore may pose harm to families who are facing one of the above situations but do not qualify for a hardship based on the AHA's policy. Please consult with the MTW office to ensure

that the AHA's policy complies with the hardship policy requirements as stated in the MTW Operations Notice.

Application of Flexibilities to HUD-VASH

Section II.j. (MTW Agencies) of the revised HUD-VASH Program Operating Requirements ("Section 8 Housing Choice Voucher: Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program"), published in the Federal Register on August 13, 2024, states that "HUD-VASH vouchers may be administered in accordance with flexibilities approved under PHA's Standard MTW Agreement or MTW Operations Notice with approval from HUD's HCV office. Until such time that additional guidance is issued, MTW PHAs must submit a request through their local field office to operate HUD-VASH in accordance with approved MTW flexibilities. Requests will be approved provided the flexibilities do not conflict with the HUD-VASH program requirements or objectives. HUD-VASH vouchers are never eligible for MTW fungibility."

In reviewing the details of your request, the Department has determined that the application of the following flexibilities below would not have a negative impact on HUD-VASH participants and could help more effectively serve HUD-VASH families in Alameda. Therefore, HUD approves the AHA's request for the following flexibilities:

- Self-certification of assets (Certain provisions of Section 8(o)(5) of the 1937 Act; 24 CFR § 982.516 (a)(3)). Families may self-certify assets of up to $50,000 provided that the asset does not earn any income.
- Alternative inspection schedule (24 CFR § 982.405(b)): A risk-based triennial inspection model for tenant-based units such that units passing their first triennial inspections remain on the triennial schedule. Units that fail their first triennial inspection revert to an annual schedule.
- Exclusion of guaranteed income payments (24 CFR § 5.609(a)(1)). Payments received by families under the City of Alameda's Guaranteed Basic Income Pilot Program are excluded in annual income calculations.

Please note, the AHA's request to award PBVs to a property owned by a single-asset entity of the AHA without engaging in a selection process no longer requires a waiver. The Housing Opportunity Through Modernization Act of 2016 - Housing Choice Voucher (HCV) and Project-Based Voucher Implementation; Additional Streamlining Changes (the HOTMA Voucher Final Rule) became effective on June 6, 2024. 24 CFR § 983.51(c) now provides for exceptions to the competitive selection. 24 CFR § 983.51(c) indicates that a PHA may select for PBV assistance a project consisting of PHA-owned units as defined at 24 CFR § 982.4 without following a competitive process. Thus, AHA's flexibility to allow for non-competitive selection of projects comprised of PHA-owned units is not required given that the HOTMA Voucher Final Rule is in effect.

Regarding pre-inspection of units, please note that the revised HUD-VASH Operating Requirements permit PHAs to pre-inspect units up to 90 days prior to the date of the Request for Tenancy Approval (RFTA), so the pre-qualifying inspection flexibility is not needed for HUD-VASH.

Regarding AHA's flexibility for guaranteed income payments, please note that while this flexibility is approved, AHA also has the option to make guaranteed income payments a permissive deduction under 24 CFR § 5.611(b).

Your request to apply the following flexibility to HUD-VASH is denied after determining that it would have a detrimental impact on HUD-VASH participants:

- Alternative reexamination schedule (Certain provisions of Section 8(o)(5) of the 1937 Act; Title 24 Code of Federal Regulations CFR § 982.516 (a)(1)). Households with any income will be on a triennial reexamination schedule, while zero-income households will remain on an annual schedule. Households are limited to one interim reexamination per calendar year if the household gross income has decreased by 10 percent or more. A family may submit a hardship request if 1) the family's income decreases to $0, 2) the decrease is anticipated to be longer than 30 days, or 3) the family faces eviction.

Per the MTW Operations Notice, MTW expansion PHAs must establish a financial hardship policy that includes the following situations: 1) The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings other assistance, 2) The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items, and 3) Such other situations and factors determined by the agency to be appropriate. The AHA hardship policy does not address these situations and therefore may pose harm to families who are facing one of the above situations but do not qualify for a hardship based on the AHA's policy. Please consult with the MTW office to ensure that the AHA's policy complies with the hardship policy requirements as stated in the MTW Operations Notice.

The AHA's request to apply two of the above PBV flexibilities, as explained further below, is denied because the MTW flexibilities afforded to the AHA through waiver of the old regulatory requirements cannot be extended. Rather, the AHA must go through the standard waiver approval process with the MTW office regarding any relief from the new regulatory requirements currently in effect. If and when such waiver of the new requirements is approved, then the PHA may request further approval to extend the MTW flexibilities.

- PBV Right Sizing (24 CFR § 983.260(a)(1), 24 CFR § 983.260(b)(1)(i), and 24 CFR § 983.260(b)(2)(i)). allows underhoused families to remain in smaller PBV units if the unit is not overcrowded and the underhoused family wishes to remain in the unit.

The HOTMA Voucher Final Rule incorporated substantive changes to 24 CFR § 983.260 regarding overcrowded, under-occupied, and accessible units. The changes involved both organizational restructuring and new requirements.

Specifically:

- 24 CFR § 983.260(a)(1) now provides (only) that "The PHA subsidy standards determine the appropriate unit size for the family size and composition."

- 24 CFR § 983.260(b)(1)(i) now references just one form of continued housing assistance ("PBV assistance in an appropriate-size unit (in the same project or in another project").
- There is no longer a regulation at 24 CFR § 983.260(b)(2)(i).

Please note that in the HUD-VASH Operating Requirements, HUD applies an alternative requirement for HUD-VASH PBV units with respect to 24 CFR § 983.260(b). Per Section K, the PHA's offer of continued assistance must be in the form of either a HUD-VASH tenant-based voucher or another HUD-VASH PBV unit. If no HUD-VASH assistance is available for the PHA to offer within 60 days of the PHA's determination, the PHA must remove the wrong-sized or accessible unit from the HAP contract to make HUD-VASH voucher assistance available to issue the family a tenant-based HUD-VASH voucher. The AHA must ensure that any alternative requirements are taken into consideration if it requests an extension of MTW flexibilities.

- PBV Contract Rent Increases (24 CFR § 983.302(b)(2)). All rent increases for PBV units are increased once a year at the beginning of AHA's fiscal year, rather than at the contract's anniversary date.

The HOTMA Voucher Final Rule incorporated substantive changes to 24 CFR § 983.302. The changes involved organizational restructuring as well as new requirements and flexibilities. Specifically, 24 CFR § 983.302(b)(2) now provides, "A rent increase may occur through automatic adjustment by an operating cost adjustment factor (OCAF) or as the result of an owner request for such an increase. A rent increase as the result of an owner request must be determined by the PHA pursuant to 24 CFR § 983.301(b) or (c), as applicable. A rent increase through an adjustment by an OCAF is likewise subject to 24 CFR § 983.301(b) or (c), as applicable, except there is no rent request by the owner to take into account since the PHA redetermines the rent automatically under that option."

Should you have any questions regarding this matter, please contact Emily Warren, Senior Housing Program Specialist, Housing Voucher Management and Operations Division, at *Emily.J.Warren@hud.gov*.

Sincerely,

Krista Mills

for
Danielle Bastarache
Deputy Assistant Secretary
Office of Public and Voucher Programs

ADMINISTRATIVE PLAN

FOR THE

SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

OF

THE HOUSING AUTHORITY OF THE CITY OF ALAMEDA

DRAFT

Approved by the Housing Commission: May 18, 2005

Submitted to HUD: May 23, 2005

Last Revised: ~~January 15~~April 16, 2025

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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 Mainstream, Near Elderly Disabled, and Family Unification Program. The AHA has been approved by HUD to apply certain flexibilities under MTW activities ~~currently do not apply~~ to the Veteran Affairs Supportive Housing (VASH) program, the Emergency Housing Voucher (EHV) program, and the Stability Voucher (SV) Program. MTW flexibilities under approved MTW activities that the AHA would like to extend to the Veteran Affairs Supportive Housing (VASH) program, the Emergency Housing Voucher (EHV) program, and the Stability Voucher (SV) Program must be requested and approved by HUD individually for each MTW activity. The table below specifies which MTW activities apply to which programs and participants.

AHA Activity Code	Activity Name	Who Does this apply to?
2022-01	2.b. Payment Standards – Fair Market Rents (HCV)	Starting July 1, 2023: HCV and PBV Starting December 1, 2024: SV, VASH, and EHV
2022-02	3.b. Alternative Reexamination Schedule for Households	Starting July 1, 2023: HCV and regular PBV (does not include VASH PBV)
2022-03	3.d. Self-Certification of Assets	Starting July 1, 2023: HCV and PBV; Starting May 1, 2025: VASH, EHV, and SV
2022-04	4.a. Vacancy Loss	Starting July 1, 2023: HCV only
2022-05	4.c. Other Landlord Incentives	Starting July 1, 2023: HCV only
2022-06	5.a. Pre-Qualifying Unit Inspections	Starting July 1, 2023: HCV and PBV; Starting May 1, 2025: EHV and SV
2022-07	5.d. Alternative Inspection Schedule	Starting July 1, 2023: HCV and PBV; Starting May 1, 2025: VASH, EHV, and SV
2022-08	9.a. Increase PBV Cap	Starting July 1, 2023: Regular PBV only (does not include VASH PBV)
2022-09	9.b. Increase PBV Project Cap	Starting July 1, 2023: Regular PBV only (does not include VASH PBV)
2022-10	9.c. Elimination of PBV Selection Process	Starting July 1, 2023: Regular PBV only (does not include VASH PBV)
2022-11	Cohort 4.2 Front-End Vacancy Loss Payment	Starting July 1, 2023: HCV only
2022-13	Allow Owner Referrals Under PBV Program	Starting August 1, 2024: Regular PBV only (does not include VASH PBV)
2022-14	Project-Based Voucher Right Sizing	Starting February 22, 2024: Regular PBV only (does not include VASH PBV)
2022-15	1.w. Alternative Income Inclusions/Exclusions (HCV)	Starting July 1, 2023: HCV and PBV; Starting May 1, 2025: VASH, EHV, and SV
2023-02	Project-Based Voucher Contract Rent Increases	Starting February 22, 2024: Regular PBV only (does not include VASH PBV)
2023-03	Project-Based Voucher First Year Moves	Starting August 1, 2024: Regular PBV only (does not include VASH PBV)
2023-05	Flexible Subsidy Standards in Project-Based Voucher Admissions	Starting August 1, 2024: Regular PBV only (does not include VASH PBV)

MTW activities do not apply to 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, 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~~HCV program~~s~~ 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.~~

~~c.~~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.

2) The conflict-of-interest prohibition under this section may be waived by the HUD field office for "good cause"; and

3) Requires compliance with the employment policies of the City of Alameda Housing Authority regarding conflicts of interest; and

4) 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

5) 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

~~(1)~~6) 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.

In 2016, Congress approved the Housing Opportunity Through Modernization Act (HOTMA) which required many changes to the HCV program. Various components have been enacted and are still being enacted today.

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 Moderate Rehabilitation Single Room Occupancy (SRO) program and families housed under the Shelter Plus Care (SPC) program. Families housed under the Veteran Affairs Supportive Housing (VASH) program; families housed under the Emergency Housing Voucher (EHV) program; and families housed under the Stability Voucher (SV) program are only approved to participate in ~~one~~ some activit~~ies~~y at this time. Please refer to the table earlier in this chapter for a list of which MTW flexibilities have been extended to these special programs. ~~This activity is included in activity 2.b., which involves the setting of payment standards and is explained further later in this plan. All other MTW activities do not apply to these three special programs.~~

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 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.

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 [HQS] 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 HUD Program Requirements; Waivers
- 24 CFR Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development
- 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 AHA to establish an 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 24 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:
  - Ddefinition of what group of persons may qualify as a 'family';
  - Ddefinition of when a family is considered to be 'continuously assisted';
  - Sstandards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 24 CFR 982.553 or other factors in accordance with 24 CFR 982.552, 24 CFR 982.554, and 24 CFR 982.555; ~~(Chapters 3 and 12);~~and
  - Policies concerning residency by a foster child, foster adult, or live-in aide, including defining when AHA consent for occupancy by a foster child, foster adult, or live-in aide must be given or may be denied (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 15);
- Informal hearing procedures for participants (Chapter 15);
- Payment standard policies, including:
  - The process for establishing and revising voucher payment standards, including whether the AHA has voluntarily adopted the use of Small Area Fair Market Rents (SAFMRs);
  - A description of how the AHA will administer decreases in the payment standard amount for a family continuing to reside in a unit for which the family is receiving assistance (see 24 CFR 982.505(c)(3)); and

- If the AHA establishes different payment standard amounts for designated areas within its jurisdiction, including exception areas, the criteria used to determine the designated areas and the payment standard amounts for those designated areas. (See 24 CFR 982.503(a)(2)) (Chapter 15);
- 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 15);
- Policies concerning interim redeterminations of family income and composition, the frequency of determinations of family income, and income-determination practices, including whether the AHA will accept a family declaration of assets ~~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 Bboard of C~~c~~ommissioners or other authorized officials to charge the administrative fee reserve (Chapter 15);
- Procedural guidelines and performance standards for conducting required Housing Quality Standards inspections (Chapter 8) including:
  - Any deficiency that the AHA has adopted as a life-threatening deficiency that is not a HUD-required life-threatening deficiency;
  - For PHAs that adopt the initial inspection non-life-threatening deficiency option: (A) The PHA's policy on whether the provision will apply to all initial inspections or a portion of initial inspections; (B) The PHA's policy on whether the provision will be applied to only some inspections and how the units will be selected; and (C) The PHA's policy on using withheld HAP funds to repay an owner once the unit is in compliance with HQS (Please note the AHA has not adopted the initial inspection non-life-threatening deficiency option);
  - For PHAs that adopt the alternative inspection provision: (A) The PHA's policy on how it will apply the provision to initial and periodic inspections; (B) The specific alternative inspection method used by the PHA; (C) The specific properties or types of properties where the alternative inspection method will be employed; and (D) For initial inspections, the maximum amount of time the PHA will withhold HAP if the owner does not correct the HQS deficiencies within the cure period, and the period of time after which the PHA will terminate the HAP contract for the owner's failure to correct the deficiencies, which may not exceed 180 days from the effective date of the HAP contract (Please note the AHA has not adopted the alternative inspection provision); and
  - The AHA's policy on charging a reinspection fee to owners (please note that the AHA will not be charging a reinspection fee to owners since the AHA is part of the MTW Landlord Incentives Cohort).
- The PHA's policy on withholding HAP for units that do not meet HQS (see 24 CFR 982.404(d)(1));

- The PHA's policy on assisting families with relocating and finding a new unit (see 24 CFR 982.404(e)(3));
- AHA screening of applicants for family behavior or suitability for tenancy (Chapter 3);
- Whether the PHA will permit a family to submit more than one Request for Tenancy Approval at a time (see 24 CFR 982.302(b)); and.
- In the event of insufficient funding, taking into account any cost-savings measures taken by the AHA, a description of the factors the AHA will consider when determining which HAP contracts to terminate first (e.g., prioritization of PBV HAP contracts over tenant-based HAP contracts or prioritization of contracts that serve vulnerable families or individuals).

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 Hhousing Cchoice Vvoucher (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 903.157(cc), 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 2022 (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 https://www.alamedahsg.org/housing-programs/reasonable-accomodations/~~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 Civil Rights Department (CRD) at https://calcivilrights.ca.gov/, or HUD's Office of Fair Housing and Equal Opportunity at https://www.hud.gov/fairhousing~~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 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 DISABIILTIES

2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation 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 https://www.alamedahsg.org/housing-programs/reasonable-accomodations/~~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 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 15. 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 21 calendar days.

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 https://www.alamedahsg.org/resource-library/agency-documents/~~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.

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

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 903.157(co), 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 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 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 https://www.alamedahsg.org/resource_library/hud-form-903-housing-discrimination-form/~~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.

~~(8)~~(9) Comply with the Fostering Stable Housing Opportunities HUD Notice (FSHO) requirements and notify current FUPY participants of the eligibility requirements for extension 180 days prior to the conclusion of the 36-month period (Section 103(b)(1) of FSHO).

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]

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 oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and 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

1. H~~h~~aving 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;
2. H~~h~~as none of the impairments defined in this section but is treated by another person as having such an impairment; or
3. H~~h~~as 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)~~5.403, HUD-50058 INSTRUCTION BOOKLET (2001), P. 1~~43~~]

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 includes, but is not limited to, ~~is defined by HUD as~~ the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

1) A~~a~~ single person, who may be:

i) an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or

ii) An otherwise eligible youth between 18 and 24 years of age, inclusive, who has left foster care or who will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

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

i) a family with or without children (including a child who is temporarily away from the home because of placement in foster care);

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. (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~~;~~ 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 Instruction Booklet (2001), p. 1~~4~~43].

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, and is equally responsible for the lease. 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 regular 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~~, HCV GB ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE PG. 7~~]

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 individuals 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, or sole member 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 on behalf of the member of the household.

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 [24 CFR 5.603]

Foster adults are a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. ~~usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].~~

A f~~The term f~~*oster child* is a member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized

placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction. ~~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 Instruction Booklet (2001), p. 1~~43~~].

~~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.

Students 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

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.

The AHA will request verification from a responsible knowledgeable professional and will use this determination. If the responsible 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 [24 CFR 5.403]

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) ~~(1)~~ is determined to be essential to the care and well-being of the persons,
(2) ~~(2)~~ is not obligated for the support of the persons, and
(3) ~~(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 members and family members with a disabilityled 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. Please refer to Chapter 6 to see how aThe family caretaker's income is calculated. 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 21 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 [24 CFR 5.603]

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

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

Extremely low-income family. A family whose annual income does not exceed the higher of 30 percent of the area median income or the federal poverty level 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 (HOPE for public housing homeownership), HOPE 2 (HOPE for 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; or
- A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a project subject to a resident homeownership program under 24 CFR 248.173.

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.

As part of the Moving to Work program, at least 75 percent of households admitted by the MTW agency during each fiscal year—in the public housing, Housing Choice Voucher (HCV), and local, non-traditional programs—must be very low-income.

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 [HUD 50058 Instruction Booklet (2001), pg. 3]

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 15 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(fg)]

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 once 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~~]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886-A, 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 restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

The AHA must not provide assistance under section 8 of the 1937 Act to any individual who:

1. Is ~~If a student~~ enrolled at an institution of higher education
2. ~~I~~is under the age of 24
3. I~~, i~~s not a veteran of the United States military
4. I~~, i~~s not married
5. D~~, d~~oes not have a dependent child
6. I~~, and i~~s not a person with disabilities receiving assistance as of November 30, 2005; and
7. Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under section 8 of the 1937 Act.~~, 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 parent(s) must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from ~~his/her~~the individual's parent(s) in

accordance with AHA policy, the income of the student's parent(s) will not be considered in determining the student's eligibility.

The law does not apply to students who reside with a parent(s) who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parent(s).

Definitions

In determining whether and how the 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 the individual's 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 the individual's 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 of 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 the individual's 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 the individual's 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~~the individual's own, apart from the individual's 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 the individual's parent(s) or the student's parent(s) 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 24 CFR 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 the individual's 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 24 CFR 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 parent(s) 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 parent(s).
- 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 the individual's ~~-~~parent(s) and has not had contact with or does not know where to contact ~~his/her~~the individual's 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 parent(s) 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~~]

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list,
- Denying or withdrawing a voucher,
- RNot approving a request for tenancy or refusing to enter into a HAP contract or approve a lease, andor
- 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; or~~.~~
- 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. Please refer to Chapter 18 for information on screening for the VASH program.

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, 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, and
- Records of illegal drug activities as reported in newspapers or other public records.

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's unit fail for tenant-caused issues every year?

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

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 and provide any documentation required by the AHA to verify departure of the family member upon AHA request.

After admission to the program, the family must present evidence of the former family member's current address and any other documentation required by the AHA to verify departure of the family member 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 15, 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 2022 (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 Hhousing Cchoice Vvoucher 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:

- Form HUD-5382, or a statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement, 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

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 2416(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 services, supports, or other assistance ~~care, treatment, or other services which are of~~that is of lifelong or extended duration and ~~are~~ is 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 as defined below.

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.

For purposes of employment, this term does not include: Any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from performing the duties of the job in question, or whose employment, by reason of current alcohol or drug abuse, would constitute a direct threat to property or the safety of others; or any individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

For purposes of other programs and activities, t~~T~~he 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]

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—

(I) (aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part 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(l)(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(l)(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 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]. 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 its 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~~AHA's jurisdiction, the ~~Housing Authority~~AHA may take applications on an open enrollment basis, depending on the length of the waiting list. The ~~Housing Authority~~AHA also may choose to use a lottery system for adding only a specific number of a~~A~~pplicants to the waiting list. In all 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 a~~A~~pplicant for admission. Each a~~A~~pplicant 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 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 tenant-based Housing Choice Voucher programs and Project-Based Voucher units. However, in many instances, the AHA will perform a random lottery for its waiting lists, and the family will be placed only on the waiting list(s) for which the family was randomly selected and not all waiting lists for which the family applied.

For targeted outreach efforts, if it has been determined that there is a specific need for a~~A~~pplicants for a specific program, or unit size or ~~/~~type, the waiting list may be opened only for a~~A~~pplicants to that program or unit size or ~~/~~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~~AHA will inform a~~A~~pplicants about available preferences when the a~~A~~pplicants receive applications and will give a~~A~~pplicants 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~~AHA will not add preferences proactively; the ~~Housing Authority~~AHA 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~~AHA will verify the information. The completed application will be date and time stamped upon its return to the ~~Housing Authority~~AHA to document when the AHA actually received the application if paper applications are accepted. Applications mailed to designated external locations will be retrieved by the AHA and will be date and ~~/~~time stamped daily. Online applications will be electronically logged as to the date and time received. However, the date and time received will not be applicable to the randomization of a 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 reasonable accommodation in completing an application may contact the ~~Housing Authority~~AHA to make special arrangements. An accommodation cannot bypass the random selection process but is appropriate for assistance with the submission of an application into the random lottery. The ~~Housing Authority~~AHA uses 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 a~~A~~pplicants 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~~AHA 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 assistance program.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

Elderly and Disabled Populations [24 CFR 8~~ and HCVGB ELIGIBILITY DETERMINATION AND DENIAL OF ASSISTANCE PG. 21~~]

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 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~~AHA 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;
- Family unit size (number of bedrooms for which family qualifies under AHA occupancy standards);
- Date and time of application;
- Qualification for any local preference; AND
- Racial or ethnic designation of the head of household.

In addition to the HCV tenant-based waiting list, the AHA maintains project-based waiting lists grouped by common unit types and similar bedroom size. All PBV 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 – Properties with an Elderly Preference (Anne B. Diament Plaza, Lincoln Willow, Littlejohn Commons, Independence Plaza (non-RAD units), and Linnet Corner [2025])
- 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, Breakers at Bayport, China Clipper, Esperanza, The Estuary I [2025], Everett Commons, Parrot Village, Rosefield Village, Shinsei Gardens, Stanford House, Stargell Commons, The Starling, and Rosefield Village)
- PBV Program – Faircloth to RAD (Independence Plaza units assisted under the AHA's Faircloth to RAD initiative)

If a family applies for assistance under the HCV program, the family will be offered the opportunity to be placed on the waiting list (if all applicants are being placed on the waiting list) or in the random lottery (if families will be randomly selected for placement 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 or accept 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.

EXTENSION OF FUP ASSISTANCE (Section 103(b)(1) of Fostering Stable Housing Opportunities HUD Notice (**FSHO))**

For FUPY participants with a HAP contract execution after December 27, 2020, FSHO provides an extension of the assistance provided to eligible youth for up to 24 months beyond the 36-month time limit of assistance if:

1. The youth is participating in a Family Self-Sufficiency (FSS) program; or
2. For youth who are unable to enroll in an FSS program who engaged in education, workforce development, or employment activities for at least 9 months of the 12-month period preceding the extension and meet one of three statutory exceptions:
    - Youth who are responsible for the care of a dependent child under the age of 6 or for the care of an incapacitated person;
    - Regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program; or
    - Incapable of complying with the requirement to participate in an FSS program or engage in education, workforce development, or employment activities, as applicable, due to a documented medical condition.

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

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

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 or links 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 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(s) claimed. 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 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 may be 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 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.

Applicants indicating interest in the PBV unit may be prescreened by the AHA for Section 8 eligibility. Applicants will be referred to the owner in the order in which the screening has been completed or by position number if AHA and owner screening are completed simultaneously. 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 assistance 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.

Waiting list referrals to the PBV owner may remain active for consideration for a PBV vacancy for a period of 120 days from the date of selection from the 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, first 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 may also continue the eligibility process for any family made ready by the owner. The AHA will return the family to the waiting list if it is a grouped waiting list and other vacancies are anticipated.

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 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 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 waiting list is exhausted.

If any PBV waiting list has been exhausted, and prior to opening the 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 Waiting list applicants shall have priority over all HCV assisted tenants for PBV units.

PBV units approved under the Request for Proposals to supply units for VASH-eligible households can only be filled with families referred by the VA as allowed under the VASH program. As VASH tenant-based and project-based families are referred by the VA, the VA maintains all waiting lists for this program.

Local Preferences and Point Values [24 CFR 982.207]

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), the Faircloth to RAD PBV Program, and the PBV Program at all other sites.

These preferences and their point values are:

HCV Program	PBV Program at APC & JCV
FUP Graduates (25 Points)	Supportive Services (10 points)
Special Provisions (12 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)	

PBV Program at PA

In Place (55 points)

Disability-specific Supportive Services (10 points)

Displaced (9 points)

Terminated (7 points)

Residency (6 points)

Family (3 points)

Veteran (2 points)

PBV Program at Other

Displaced (9 points)

Terminated (7 points)

Residency (6 points)

Family (3 points)

Veteran (2 points)

PBV Faircloth to RAD Program

In Place (55 points)

Elderly (25 points)

Displaced (9 points)

Terminated (7 points)

Residency (6 points)

Veteran (2 points)

PBV Program at Properties with an Elderly Preference

In Place (55 points)

Elderly (25 points)

Displaced (9 points)

Terminated (7 points)

Residency (6 points)

Family (3 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 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 waiting list. Changes to preference points will be applied to the next available 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 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 inspection protocols and State and local housing code that is adequate for the family size according to inspection protocols 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 over-housed 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 offered 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 is 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 over-leasing or lack of federal funding. At the time a participant is terminated due to over-leasing 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 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 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.

Elderly. A family whose head of household, co-head/spouse, or sole member is a person 62 years of age or older.

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 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)(4)].

Order of Selection

For families placed on a 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 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(a) 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 waiting lists (i.e., PBV), applicants will be removed from the waiting list if they are non-responsive to or refuse an offer of a unit for sites housed under the 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 though a private interview. 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.

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 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 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(b) and 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.

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 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.

The AHA will request verification from a responsible knowledgeable professional and will use this determination. If the responsible 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 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
- 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" [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 benefit) information to calculate annual income since this information is at least six months old and more current information (from pay stubs) is available. The AHA requires three current and consecutive pay stubs from a client to calculate anticipated annual

income. For new income sources or when three pay stubs are not available, the AHA will project income based on the information from a traditional written third party verification form or the best available information.

AHA procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents dated either within the 60-day period preceding the reexamination or AHA request date. Documents older than 60 days (from the AHA interview/determination or request date) is acceptable for confirming effective dates of income.

The AHA will follow "HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (UIV) Data Is Available" in handling differences between UIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines *substantial difference* as a difference of $200 or more per month.

No Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by less than $200 per month, the AHA will follow these guidelines:

The AHA will use the UIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the AHA will use the family-provided information.

If the UIV method used was EIV, the AHA will use the pay stubs supplied by the family to calculate the anticipated annual income.

Substantial Difference. If UIV/EIV information for a particular income source differs from the information provided by a family by $200 or more per month, the AHA will take the following actions:

- Discuss the income discrepancy with the tenant; and
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/or income sources; and
- In the event the tenant is unable to provide acceptable documentation to resolve the income discrepancy, the AHA is required to request from the third-party source, any information necessary to resolve the income discrepancy; and
- If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively; and
- Take any other appropriate action as directed by HUD.

When the AHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the AHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.

The AHA will analyze all UIV/EIV data, third party verifications, and family certifications and attempt to resolve the income discrepancy.

The AHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

6-I.D. EARNED AND UNEARNED INCOME [24 CFR 5.100]

Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

Types of Income Included in Annual Income

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

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

Types of Income Not Counted in Annual Income

Nonrecurring Income [24 CFR 5.609(b)(24)]. Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under 24 CFR 5.609(b)(24), even if the source, date, or amount of the income varies. Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Lump-Sum Additions to Net Family Assets. Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings, are excluded from annual income. These amounts may count toward net family assets in accordance with 24 CFR § 5.603. [24 CFR § 5.609(b)(24)(vii)]

Income Earned on Amounts Placed in a Family's Family Self Sufficiency (FSS) Account. Income earned on amounts placed in a family's FSS account is excluded from the family's calculation of annual income. [24 CFR § 5.609(b)(27)]

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

Certain Earned Income of Full-Time Students. Earnings in excess of the amount of the deduction for a dependent in § 5.611 for each full-time student 18 years old or older (except for the head, spouse, or cohead) are not counted [24 CFR 5.609(c)(11)]. Full-time students must be dependent family members for this exclusion to apply. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

Income of Live-in Aides, Foster Children, and Foster Adults. Income of a live-in aide, foster child, or foster adult as defined in 24 CFR 5.403 and 5.603, is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides, foster children, and foster adults.)

Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments. Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments, are excluded from annual income. This income exclusion also applies to Kinship Guardian Assistance Payments (Kin-GAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs. [24 CFR § 5.609(b)(4)]

Insurance Payments or Settlements. Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments. [24 CFR § 5.609(b)(5)]

Civil Action Recoveries or Settlements. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a person with disabilities are excluded from annual income. Any amounts recovered are excluded irrespective of whether they are received periodically or in a lump sum payment. [24 CFR § 5.609(b)(7)]

Civil Rights Settlements or Judgments. Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income. [24 CFR § 5.609(b)(25)]

Adoption Assistance Payments. Adoption assistance payments in excess of $480 per adopted child are excluded from the family's calculation of annual income. This amount will be adjusted annually in accordance with the CPI–W. [24 CFR § 5.609(b)(15)]

Veterans Regular Aid and Attendance. Payments to veterans in need of regular aid and attendance are excluded from annual income under 38 U.S.C. 1521. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse. [24 CFR § 5.609(b)(17)]

Home-Based Care Payments for a Family Member(s) with a Disability(ies). Payments made by or authorized by a state Medicaid agency (including through a managed-care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit are excluded from the calculation of the family's annual income. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through a managed-care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit. A family member with a disability qualifies for this income exclusion. Amounts received may be intended for items such as services, equipment, and compensation provided to a family member. The payments are excluded from income as long as the amounts are provided to enable a family member with a disability to remain in the family's assisted unit. Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household. [24 CFR § 5.609(b)(19)]

Loan Proceeds. Loan proceeds (the net amount disbursed by a lender to a borrower under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family to finance the purchase of a car) are excluded from annual income. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable. Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student. [24 CFR § 5.609(b)(20)]

Certain Payments Received by Tribal Members. Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code (IRC) or other federal law, are excluded from annual income. [24 CFR § 5.609(b)(21)]

Exclusions from Other Federal Statutes. This exclusion applies to all amounts that HUD is required by federal statute to exclude from annual income. Please refer to 6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME for a current list. [24 CFR § 5.609(b)(22)]

Replacement Housing Gap Payments. Replacement housing "gap" payments made in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("URA"), as implemented by 49 CFR Part 24, are excluded from annual income. "Gap" payments offset the increased out-pocket costs of displaced persons who move from one federally subsidized housing unit to another federally subsidized housing unit. However, replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments. Replacement housing "gap" payments should cover a minimum of 42 months of tenancy at the new unit. [24 CFR § 5.609(b)(23)]

Achieving a Better Life Experience (ABLE) Accounts. Income generated from ABLE accounts is not considered when calculating income from assets. Distributions from these accounts are also excluded from income. [24 CFR § 5.609(b)(22)]

Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts and "Baby Bond" Accounts. Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government are excluded from income. [24 CFR § 5.609(b)(10)]

Income Earned under Certain Federal Programs. Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

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

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

The AHA defines *training program* as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period to time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to: (1) classroom training in a specific

occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education" [expired Notice PIH 98-2, p. 3].

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

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

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

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

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

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

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

Gross Income from Self-Employment or Operation of a Business

The gross income received by a family through self-employment, or the operation of a business is excluded from income. Gross income is all income amounts received into the business, prior to the deduction of business expenses. The net income from self-employment or the operation of a business is considered income.

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

Business Expenses

Net income is "gross income less business expense" .

To determine business expenses that may be deducted from gross income, the AHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

Business Expansion

HUD regulations do not permit the AHA to deduct from gross income expenses for business expansion.

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

HUD regulations do not permit the AHA to deduct from gross income the amortization of capital indebtedness.

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the AHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

Negative Business Income

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

Withdrawal of Cash or Assets from a Business

HUD regulations require the AHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of $2,000 to help a business get started, the AHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

Co-owned Businesses

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

6-I.G. ASSETS [24 CFR 5.609(B)(3) AND 24 CFR 5.603(B)]

Overview

There is no asset limitation for participation in the HCV program until the AHA implements the provisions of HOTMA sometime in 2024. However, HUD requires that the AHA include in annual income the "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income from various types of assets is determined. For most types of assets, the AHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

This section begins with a discussion of general policies related to assets and then provides HUD rules and AHA policies related to each type of asset.

General Policies

Income from Assets

The AHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the AHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) the AHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, the AHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to the AHA to show why the asset income determination does not represent the family's anticipated asset income.

For families and participants included in MTW:

The AHA allows self-certification of combined assets of $50,000 for participants on the program. For assets less than $50,000, the family must provide a statement with any income earned on the assets under penalty of perjury. No other verification is required. Assets that the family does not have access to such as irrevocable trusts and 401K accounts would not count towards the $50,000 threshold. New assets under $50,000 do not need to be reported between triennials. This paragraph applies~~d~~ to families participating in the MTW program which includes those in the HCV, PBV, FUP, VASH, EHV, and SV programs.

For families and participants not included in MTW:

The family must provide verification of all assets and the higher of the actual or imputed income will be used as discussed in the next section.

Valuing Assets

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

- The market value of an asset is its worth (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash. Examples of acceptable costs include penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions .

Lump Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

Imputing Income from Assets [24 CFR 5.609(b)(3)]

For families and participants not included in MTW:

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

For families and participants included in MTW:

Actual income of assets is used if the total value of assets is less than $50,000. If assets are in excess of $50,000, the AHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by the current HUD-established passbook savings rate.

Determining Actual Anticipated Income from Assets

It may or may not be necessary for the AHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement plan

is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

Jointly Owned Assets

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the AHA will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, the AHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the AHA will prorate the asset evenly among all owners.

Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]

HUD regulations require the AHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

Minimum Threshold

The AHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past year exceeds the gross amount received for the assets by more than $500.

For families and participants not included in MTW:

When the one-year period expires, the income assigned to the disposed asset(s) also expires. If the one-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

For families and participants included in MTW:

See interim policies on income decreases. Requesting a decrease to remove the asset income will count towards the one interim per year cap.

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

Separation or Divorce

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a

formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Foreclosure or Bankruptcy

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

Family Declaration

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

Types of Assets

Checking and Savings Accounts

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

In determining the value of a checking account, the AHA will use the current balance.

In determining the value of a savings account, the AHA will use the current balance.

In determining the anticipated income from an interest bearing checking or savings account, the AHA will multiply the value of the account by the current rate of interest paid on the account.

Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

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

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

Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the AHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

Trusts

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.

If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.

- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump sum receipts are discussed earlier in this section.)

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the AHA must know whether the money is accessible before retirement .

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump sum receipt, as appropriate , except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

In determining the value of personal property held as an investment, the AHA will use the family's estimate of the value. However, the AHA also may obtain an appraisal if appropriate to confirm the value of the asset. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets [24 CFR 5.603(b)].

Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV, p. 5-14]

Lump Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b)(4)]. Also, lump sum payments from any deferred Department of Veterans Affairs disability benefits or received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al. v. Ken Salazar et al. are not counted as income [FR 07/24/2012, pp. 43347-43349].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]

  The AHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency .
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)]

- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J.) [24 CFR 5.609(b)(4)].
- Lump sums received as a result of deferred Department of Veterans Affairs disability benefits or received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise Cobell et al. v. Ken Salazar et al. are not counted as income (see section 6-I.J.) [FR 07/24/2012, pp. 43347-43349]

- *Guaranteed Basic Income*: Amounts received under the City of Alameda's Guaranteed Basic Income Pilot Program and United Way Bay Area's (UWBA) Community-Based Roads to Prosperity program are not included in annual income for families participating in MTW activities which includes those in the HCV, PBV, FUP, VASH, EHV, and SV programs.

6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump sum receipts in section 6-I.G.)

6-I.J. WELFARE ASSISTANCE

Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

The AHA must make a special calculation of annual income when the welfare agency imposes sanctions on families. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 CFR 5.615 are those "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance" [24 CFR 5.615(b)]

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the AHA must include in annual income "imputed" welfare income. The AHA must request that the welfare agency inform the AHA when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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

Offsets

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

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

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

Alimony and Child Support

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

The AHA will count court-awarded amounts for alimony and child support unless the AHA verifies that (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments .

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

Regular Contributions or Gifts

The AHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets

provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries, diapers and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by the AHA. For contributions that may vary from month to month (e.g., utility payments), the AHA will include an average amount based upon past history.

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

Section 210(b) of the Consolidated Appropriations Act, 2023, requires that, "for purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children." HUD interprets that "a person over the age of 23" is 24 years old..

While the Consolidated Appropriations Act, 2023, language is limited to federal fiscal year 2023, this does not rule out the possibility that similar language will be included in future years' appropriations bills.

Funds from a year where HUD's appropriation includes Section 8 student financial assistance limitation.

If the student is the head of household, co-head, or spouse and is under the age of 23 or without dependent children, then both the assistance received under 479B of the HEA and other student financial assistance received by the student will be counted as income to the extent that it exceeds the total of tuition and any other required fees and charges.

In contrast, the student financial assistance received by a Section 8 student who is the head of household, spouse, or co-head of household and is over the age of 23 with dependent children, all assistance received under 479B of the HEA is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income.

Actual covered costs include: tuition, books, supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and fees required and charged to a student by an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1087uu)). For a student who is not the head of household, co-head, or spouse, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Funds from a year where HUD's appropriation does not include Section 8 student financial assistance limitation.

During years in which an appropriations act does not contain the Section 8 student financial assistance limitation (or any other such limitation), then all assistance received under 479B of the HEA is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income.

Amounts Received Under Section 479B of the Higher Education Act (HEA) of 1965, as amended (20 U.S.C. 1087uu)

Section 479B provides that certain types of student financial assistance are to be excluded in determining eligibility for benefits made available through federal, state, or local programs financed with federal funds. The types of financial assistance listed below are considered 479B student financial assistance programs; however, this list is not exhaustive, and 479B will be updated as of July 1, 2024.

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Student financial assistance received under the Bureau of Indian Education;
- Higher Education Tribal Grant;
- Tribally Controlled Colleges or Universities Grant Program;
- Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

Other Student Financial Assistance

Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. Other student financial assistance includes grants or scholarships received from the following sources:

- The Federal government;
- A state (including U.S. territories), Tribe, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Other student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA); or

- Gifts, including gifts from family or friends.

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

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

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of $480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)]. HUD publishes an updated list of these exclusions periodically. It includes:
    a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
    b) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058) are excluded from income except that the exclusion shall not apply in the case of such payments when the Chief Executive Officer of the Corporation for National and Community Service appointed under 42 U.S.C. 12651c determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)). This exclusion also applies to assets;
    c) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)) This exclusion also applies to assets;
    d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
    e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
    f) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

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

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

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

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

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

l) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)) 1, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l)). This exclusion also applies to assets;

m) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409);

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

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

p) Any allowance paid to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802–05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811– 16), and children of certain Korean and Thailand service veterans born with spina bifida (38 U.S.C. 1821–22) is excluded from income and assets (38 U.S.C. 1833(c)).

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

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

s) Assistance from the School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC)

t) Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1009 (25 U.S.C. 1774f(b))

u) Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437) by Section 2608 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 42 U.S.C. 4501)

v) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. chapter 11 or dependency and indemnity compensation under 38 U.S.C. chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and SelfDetermination Act (NAHASDA) (25 U.S.C. 4101 et seq.);

w) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) and administered by the Office of Native American Programs

x) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., United States District Court, District of Columbia, as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291); This exclusion also applies to assets;

y) Any amounts in an ‘‘individual development account’’ are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4));

z) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013– 1 and 2013–55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013–1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe’s private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407);

aa) Federal assistance for a major disaster or emergency received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93– 288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)). This exclusion also applies to assets;

bb) Any amount in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09/H 2019–06 or subsequent or superseding notice is excluded from income and assets; and

cc) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021(Pub. L. 117–2, section 3201). This exclusion also applies to assets.

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require AHAs to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [AHA] must deduct the following amounts from annual income:

(1) $480 for each dependent;

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

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

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

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

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

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

Anticipating Expenses

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

If a family has an accumulated debt for medical or disability assistance expenses, the AHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The AHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

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

6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

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

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

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

The medical expense deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

Definition of Medical Expenses

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise

reimbursed and may only be deducted for elderly or disabled families.

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(B) AND 24 CFR 5.611(A)(3)(II)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any income exclusions are applied.

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

When the AHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" .

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

Eligible Attendant Care

The family determines the type of attendant care that is appropriate for the person with disabilities.

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

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

If the care attendant also provides other services to the family, the AHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

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

Families That Qualify for Both Medical and Disability Assistance Expenses

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

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

6-II.F. CHILD CARE EXPENSE DEDUCTION

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

Clarifying the Meaning of *Child* for This Deduction

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

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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

In evaluating the family's request, the AHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

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

Furthering Education

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

Being Gainfully Employed

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during

the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

Earned Income Limit on Child Care Expense Deduction

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

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

When the person who is enabled to work is a full-time student whose earned income above $480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income.

The AHA must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

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

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The AHA may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

For school-age children, costs attributable to public or private school activities during standard school hours are not considered.

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

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

Necessary and Reasonable Costs

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

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

PART III: CALCULATING FAMILY SHARE AND AHA SUBSIDY

6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

TTP FORMULA [24 CFR 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between $0 and $50 that is established by the AHA

The AHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 CFR 5.628]

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is $50.

Family Share [24 CFR 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the AHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the AHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. (For a discussion of the application of payment standards, see section 6-III.C.)

AHA Subsidy [24 CFR 982.505(b)]

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

Utility Reimbursement [24 CFR 982.514(b)]

When the AHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. The AHA will make utility reimbursements to the family.

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

In the jurisdiction of the AHA, the minimum rent is set at $50.00. This is the minimum monthly rent used to set the HCV subsidy. Exceptions may be granted in the case of financial hardship. The following are hardships, which would be granted an exception to the minimum monthly rent:

- Delay in benefits from start of unemployment or disability; exception would be granted until benefits begin. In such cases, the AHA will counsel families as to the availability of services in the area.
- When the family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program;
- When the income of the family has decreased because of changed circumstances, including loss of employment;
- When a death has occurred in the family; and
- Other circumstances determined by the AHA.

If the AHA determines that there is a qualifying financial hardship, but that it is temporary, a minimum rent will not be imposed for a period of 90 days from the date of the family's request. At the end of the 90-day suspension period, a minimum rent is imposed retroactively to the time of suspension. The family will be offered a payment agreement for the amount of back rent owed.

If the AHA determines there is a qualifying long-term financial hardship the family will be exempt from any minimum rent requirements. If the AHA determines that there is no qualifying financial hardship exemption the minimum rent will be reinstated including the back payment for the minimum rent from the time of the suspension on terms and conditions established by the AHA.

6-III.C. HARDSHIP POLICIES FOR FAMILIES AND PARTICIPANTS INCLUDED IN MTW

Families participating in the MTW program have additional hardship policies for some MTW activities. The AHA has Hardship Policies for two of its activities: implementation of the payment standard and its alternative reexamination schedule.

HARDSHIP POLICY- PAYMENT STANDARD – FMR

This Moving to Work (MTW) activity allows the agency to change Payment Standard based on an expanded range of 80% to 150% of the Fair Market Rents (FMR) by bedroom size.

The agency applies increased payment standards during the following participant events:

1. Regular reexamination of household income and composition.
2. When an owner requests a rent increase.

A financial hardship for a decrease in payment standards are only for families where 1) the payment standard would decrease in an established unit (not at unit transfers or issuance of vouchers), 2) where the payment standard is set less than 90% of the FMR, and 3) where:

- Tthe family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the assisted family, or reduction in or loss of earnings or other assistance; ~~and~~or
- Tthe family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items.

Request a Hardship

To qualify for a hardship exemption when the payment standard is set less than 90% of the FMR, a family must submit a request for a hardship exemption in writing to hardshiprequest@alamedahsg.org. A paper request may be submitted at the Agency's offices, but it will be scanned and e-mailed to this address for tracking purposes. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay rent.

Determination of Hardship

When a family requests a financial hardship exemption, the AHA must suspend the MTW activity while the request is being processed beginning the first of the month following the family's request until the AHA has determined if the request is warranted. This means the AHA will set the family's payment standard at 90% until the determination of the hardship is determined.

During this suspension, the AHA will determine whether the financial hardship exists and whether the hardship is temporary or long-term. AHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

AHA will determine the nature of the hardship within 30 calendar days of the request being received. If the AHA requests information from the family and it is not received within the 30 days after the original request was made, the AHA may deny the request and require the family to repay the additional assistance paid during the suspension of the MTW activity period.

No Financial Hardship

If AHA determines there is no financial hardship, AHA will reinstate the reduced payment standard and require the family to repay the additional assistance paid during the suspension of the MTW activity period.

AHA will require the family to repay the suspended amount within 30 calendar days of AHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If AHA determines that a qualifying financial hardship is temporary, AHA must suspend the MTW activity for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of their portion of the rent including the calculation of the decreased payment standard and must repay the AHA the amounts suspended. This repayment, upon request of the household, will be subject to a repayment plan under the AHA's repayment agreement policies if eligible.

Long-Term Hardship

If AHA determines that the financial hardship is long-term, AHA must exempt the family from the MTW activity for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the later of the end of the qualifying hardship event or the family's second regular reexamination after the decrease in payment standards was implemented. When the financial hardship has been determined to be long-term, the family is not required to repay the additional subsidy paid under the hardship.

Grievance procedure:

The family may request a second level review of the denied hardship request by submitting a written appeal to hardshiprequest@alamedahsg.org. This appeal should contain any information the family would like to be considered during the appeal review including why the family believes the incorrect determination was made. The appeal will be reviewed by a different staff member than the one that made the original determination. Also, any staff reporting to the staff member making the original denial will be ineligible to review the appeal request. The appeal will be reviewed and responded to within 14 calendar days of receipt of the appeal.

If the second review results in the same decision as the original request, the family may request an Informal Hearing according to the AHA's Informal Hearing procedures stated in Chapter 15.

HARDSHIP POLICY- ALTERNATIVE REEXAMINATION SCHEDULE FOR HOUSEHOLDS

This Moving to Work (MTW) activity allows the agency to establish an alternative reexamination schedule including placing a limit on the number of interim reexaminations between regular reexaminations.

The AHA is limiting households to one interim per calendar year if the household gross income has decreased by 10% or more.

For households not claiming $0 income, the regular reexamination schedule will be once every three years. For those families claiming $0 income, there will be a regular

reexamination once a year and a zero-income certification will be required every 90 days. If income from outside the house is disclosed on this form, such as family contributions, the income will be added to the family's income for rent calculation purposes.

As prior to this activity, families under Income Averaging will not receive a decrease unless the family permanently loses the source of income that is cyclical.

If a family would like to process an interim for~~receives~~ an income decrease of less than 10% from the last income calculation or would like a second interim in the calendar year, the family may submit a hardship request if:

- The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the assisted family, or reduction in or loss of earnings or other assistance; or
- The family has experienced an increase in expenses, because of changed circumstances, for medical costs, childcare, transportation, education, or similar items.
- ~~The family's income decreases to $0 or~~
- ~~The decrease is anticipated to be longer than 30 days without a secondary source of income anticipated to increase. For example, families who lose wage income can anticipate a payment of unemployment, so the decrease would not be processed until the unemployment process is completed or~~
- ~~The family faces eviction.~~

Request a Hardship

To qualify for a hardship exemption for additional reexaminations, a family must submit a request through the agency's online form located on the AHA's website (https://www.alamedahsg.org/housing-programs/program-forms/) or by filling out a paper copy (https://www.alamedahsg.org/housing-programs/program-forms/) and emailing it to hardshiprequest@alamedahsg.org. . A paper request may be submitted at the Agency's offices, but it will be scanned and e-mailed to this address for tracking purposes. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay rent. If the family is claiming to be facing eviction, they must submit a copy of a Termination of Tenancy, the eviction notice or a self-certification, signed under penalty of perjury, along with the hardship request. If the family submits a self-certification that the family is facing eviction, the Agency may verify that with the landlord.

Determination of Hardship

When a family requests a financial hardship exemption, the AHA will review the request within 5 business days to determine whether the household is eligible for a hardship based on the information provided. If the AHA needs additional information, the household has 7 business days from the AHA's request for information to provide all of the information required. The AHA has 3 business days to make an eligibility determination. If the AHA requests information from the family and it is not received within the 7 business days after the request was made, the AHA may deny the request.

If the AHA determines that the request does not meet the definition of a hardship has outlined in this policy, the agency will notify the household. Please refer to the "Grievance Procedure" below for household's available next steps in this circumstance.

If the AHA determines that the request does meet the definition of a hardship has outlined in this policy, the agency must suspend the MTW activity while the request is being processed. This means the AHA will conduct a reexamination and recalculate the family's portion of rent based on current circumstances until the final determination of the hardship is determined.

During this suspension, the AHA will determine whether the financial hardship exists and whether the hardship is temporary or long-term. AHA defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days.

AHA will determine the nature of the hardship within 30 calendar days of the request being received. If the AHA requests information from the family and it is not received within the 30 days after the original request was made, the AHA may deny the request and require the family to repay the additional assistance paid during the suspension of the MTW activity period.

No Financial Hardship

If AHA determines there is a minimal or no financial hardship, AHA will reinstate the family's previously calculated share and require the family to repay the additional assistance paid during the suspension of the MTW activity period.

AHA will require the family to repay the suspended amount within 30 calendar days of AHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If AHA determines that a qualifying financial hardship is temporary, AHA must suspend the MTW activity for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of their portion of the rent as previously determined by the AHA and must repay the AHA the amounts suspended. This repayment, upon request of the household, will be subject to a repayment plan under the AHA's repayment agreement policies if eligible.

Long-Term Hardship

If AHA determines that the financial hardship is long-term, AHA must exempt the family from the MTW activity for so long as the hardship continues. The exemption will apply

from the first of the month following the family's request until the later of the end of the qualifying hardship event or the family's next regularly scheduled reexamination. When the financial hardship has been determined to be long-term, the family is not required to repay the additional subsidy paid under the hardship.

Grievance procedure:

The family may request a second level review of the denied hardship request by submitting a written appeal to hardshiprequest@alamedahsg.org. This appeal should contain any information the family would like to be taken into account during the appeal review including why the family believes the incorrect determination was made. The appeal will be reviewed by a different staff member than the one that made the original determination. Also, any staff reporting to the staff member making the original denial will be ineligible to review the appeal request. The appeal will be reviewed and responded to within 14 calendar days of receipt of the appeal.

If the second review results in the same decision as the original request, the family may request an Informal Hearing according to the AHA's Informal Hearing procedures stated in Chapter 15.

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

Overview

The AHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the AHA's payment standards. The establishment and revision of the AHA's payment standard schedule are covered in Chapter 15.

Payment standard is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the AHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the AHA establishes an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the AHA will use the appropriate payment standard for the exception area.

The AHA will pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's total tenant payment or (2) the gross rent for the family's unit minus the total tenant payment.

Changes in Payment Standards

When the AHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations and approved MTW activities.

Decreases [24 CFR 982.505(c)(3)]

If the payment standard decreases, the family will receive the higher (old) payment standard while the family continues to receive voucher assistance in that unit as long as the family composition does not change. See below for changes in family composition.

If the family moves, the new payment standard will be applied to the new unit.

Increases [24 CFR 982.505(c)(4)]

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family at the next interim or regular reexamination, whichever comes first.

Changes in Family Size

Irrespective of any increase or decrease in the payment standard, if the family size increases or decreases during the HAP contract term, the new family size will be used to determine the payment standard for the family effective at the interim. **Reasonable Accommodation**

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the AHA is allowed to establish a higher payment standard for the family within the basic range.

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

Overview

An AHA-established utility allowance schedule is used in determining family share and AHA subsidy. The AHA must use the appropriate utility allowance under HUD regulations. The Utility Allowance will be the lower of 1) the utility allowance amount for the family subsidy size or 2) the utility allowance amount for the bedroom size of the assisted unit. See Chapter 5 for information on the AHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 15.

Reasonable Accommodation

The AHA will approve a utility allowance amount higher than shown on the AHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the AHA will approve an allowance for air-conditioning, even if the AHA has determined that an allowance for air-conditioning generally is not needed.

In cases where the unit size leased exceeds the family unit size, the AHA may use the utility allowance for the size of the dwelling unit actually leased as a reasonable accommodation.

The family must request these higher allowances and provide the AHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB Utility Allowances pg. 7]. The AHA will verify all information provided.

Utility Allowance Revisions

At reexamination, the AHA will use the AHA current utility allowance schedule [24 CFR 982.517(d)(2)].

Revised utility allowances will be applied to a family's rent and subsidy calculations at the regular reexamination that is effective after the allowance is adopted.

6-III.F. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The AHA must prorate the assistance provided to a mixed family. The AHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the AHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the AHA subsidy would be reduced to $250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 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 (c) of this section.

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

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

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

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

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

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

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

(6) Welfare assistance payments.

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

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31[1]; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition and any other required fees or charges, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1002 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: General Temporary Assistance for Needy Families

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

[1] Text of 45 CFR 260.31 follows.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) [Reserved]

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

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

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

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

Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

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

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

b) Payments, including for supportive services and reimbursement of out-of-pocket expenses, to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

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

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

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

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

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

h) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study

program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended);

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

j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in In Re Agent Orange liability litigation, M.D.L. No. 381 (E.D.N.Y.) (Pub. L. 101-201 and 101-39);

k) Payments received under the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420, 25 U.S.C. 1721);

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

m) The amount of any refund (or advance payment with respect to a

refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409);

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

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

p) Any allowance paid to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802–05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811– 16), and children of certain Korean and Thailand service veterans born with spina bifida (38 U.S.C. 1821–22) is excluded from income and assets (38 U.S.C. 1833(c)).

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

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

s) Any amount received under the School Lunch Act and the Child Nutrition Act of 1966 (42 U.S.C. 1780 (b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);

t) Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));

u) Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the

definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437) by Section 2608 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 42 U.S.C. 4501);

v) Any amounts (i) not actually received by the family, (ii) that would

be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. chapter 11 or dependency and indemnity compensation under 38 U.S.C. chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.);

w) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) and administered by the Office of Native American Programs; and

x) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);

y) Any amounts in an "individual development account" are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended in 2002 (Pub.L. 107-110, 42 U.S.C. 604(h)(4));

z) Per Capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013– 1 and 2013–55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013–1. The first $2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407);

aa) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub.L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155 (d)). This exclusion also applies to assets;

bb) Any amount in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in

Notice PIH 2019–09/H 2019–06 or subsequent or superseding notice is excluded from income and assets; and

cc) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021 (Pub. L. 117–2, section 3201). This exclusion also applies to assets.

MTW INCOME EXCLUSIONS

Guaranteed Basic Income (see MTW Activity 1.w.)

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

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

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Section 8 tenant-based assistance program: How welfare benefit reduction affects family income

(a) Applicability. This section applies to covered families who receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the AHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the AHA, the welfare agency will inform the AHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the AHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The AHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the AHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the AHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The AHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of AHA decision.

A participant may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the AHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the AHA denies the family's request to modify such amount, the AHA shall give the family written notice of such denial, with a brief explanation of the basis for the AHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the AHA determination, the family may request an informal hearing on the determination under the AHA hearing procedure.

(e) AHA relation with welfare agency.

(1) The AHA must ask welfare agencies to inform the AHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the AHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The AHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the AHA. However, the AHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The AHA shall be entitled to rely on the welfare agency notice to the AHA of the welfare agency's determination of a specified welfare benefits reduction.

CHAPTER 8

HOUSING QUALITY STANDARDS

AND RENT REASONABLENESS DETERMINATIONS [24 CFR 5 SUBPART G AND NOTICE PIH 2023-28]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV), Project-Based Voucher (PBV), and Moderate Rehabilitation (Mod Rehab) assistance meet HUD's Housing Quality Standards (HQS) before October 1, 2024 and meet Housing Quality Standards (HQS) regulations and standards starting October 1, 2024. If HUD extends the deadline by which the HQS standards must be used, the AHA will continue to use the HQS inspection standards until the new deadline. Inspections are required before the Housing Assistance Payments (HAP) Contract is signed. Depending on program requirements, HQS will be required annually, biennially, or triennially as discussed in this chapter.

HUD also requires PHAs to determine that units rented by families assisted under the HCV program have rents that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and AHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the AHA will make and the steps that will be taken when units do not meet the inspection protocol including HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the AHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: PHYSICAL STANDARDS

HQS standards are published on HUD’s HQS website as well as in the HQS Final Rule [FR Notice 5/1//2023].

8-I.A. INSPECTABLE AREAS [24 CFR 5.703(A)(1) AND 24 CFR 5.705(A)(2)]

HQS defines the inspectable areas for inspection under the standards as inside, outside and unit. The inspection requirement for the HCV and PBV programs only applies to units occupied or to be occupied by HCV or PBV participants and common areas and exterior areas which either service or are associated with such units.

Variance to the Acceptability Criteria:

On September 1, 2021, the HUD Field Office approved the AHA for a variance to Housing Quality Standards Acceptability Criteria pursuant to 24 CFR 982.401 (a)(4) for units at 1825 Poggi Street, Alameda. The variance is to allow the elevator to be inoperable. All other performance and acceptability standards for HCV-assisted housing must meet the guidelines at 24 CFR 982.401. This variance applies to the HQS inspection protocol only at this time.

8-I.B. AFFIRMATIVE HABITABILITY REQUIREMENTS [24 CFR 5.703(B), (C), AND (D)]

HQS provides for minimum, or affirmative, habitability requirements for each area (unit, inside, outside). These areas must meet these requirements for habitability, which are listed in Exhibit 8-1.

The inside, outside and unit must be free of health and safety hazards that pose a danger to residents. Types of health and safety concerns include, but are not limited to, carbon monoxide, electrical hazards, extreme temperature, flammable materials or other fire hazards, garbage and debris, handrail hazards, infestation, lead-based paint, mold, and structural soundness [24 CFR 5.703(e)].

The HQS Smoke Alarm Standard does not require that smoke alarms have a sealed battery; however, upon the effective date of the Public and Federally Assisted Housing Fire Safety Act of 2022 on December 29, 2024, sealed batteries will be required.

8-I.C. MODIFICATIONS TO PROVIDE ACCESSIBILITY [24 CFR 100.203; NOTICE 2003-31; AND NOTICE PIH 2014-02]

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31]. See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

8.I.D. ADDITIONAL LOCAL REQUIREMENTS

The AHA may impose additional quality standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice. HUD approval is required if more stringent standards are imposed. HUD approval is not required if the AHA additions are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

8.I.E. LIFE THREATENING CONDITIONS [NOTICE PIH 2023-28]

HUD previously required the PHA to define life-threatening conditions in the administrative plan. The HQS standards now describe those conditions which are considered life-threatening and must be corrected within 24 hours.

The following are a list of life-threatening deficiencies under HQS:

Call-for-Aid System

- System is blocked, or pull cord is higher than 6 inches off the floor; OR
- System does not function properly.

Carbon Monoxide Alarm

- Carbon monoxide alarm is missing, not installed, or not installed in a proper location;
- Carbon monoxide alarm is obstructed; OR
- Carbon monoxide alarm does not produce an audio or visual alarm when tested.

Chimney

- A visually accessible chimney, flue, or firebox connected to a fireplace or wood-burning appliance is incomplete or damaged such that it may not safely contain fire and convey smoke and combustion gases to the exterior; OR
- Chimney exhibits signs of structural failure.

Clothes Dryer Exhaust Ventilation

- Electric dryer transition duct is detached or missing;
- Gas dryer transition duct is detached or missing;
- Electric dryer exhaust ventilation system has restricted airflow;
- Dryer transition duct is constructed of unsuitable material; OR
- Gas dryer exhaust ventilation system has restricted airflow.

Door – Entry

- Entry door is missing.

Door – Fire Labeled

- Fire-labeled door is missing.

Egress

- Obstructed means of egress;
- Sleeping room is located on the third floor or below and has an obstructed rescue opening; OR

- Fire escape is obstructed.

Electrical – Conductor, Outlet, and Switch

- Outlet or switch is damaged;
- Exposed electrical conductor; OR
- Water is currently in contact with an electrical conductor.

Electrical – Service Panel

- The overcurrent protection device is damaged.

Exit Sign

- Exit sign is damaged, missing, obstructed, or not adequately illuminated

Fire Escape

- Fire extinguisher is damaged or missing.

Fire Extinguisher

- Fire extinguisher pressure gauge reads over or under-charged;
- Fire extinguisher service tag is missing, illegible, or expired; OR
- Fire extinguisher is damaged or missing.

Flammable and Combustible Items

- Flammable or combustible item is on or within 3 feet of an appliance that provides heat for thermal comfort or a fuel-burning water heater; OR
- Improperly stored chemicals.

Guardrail

- Guardrail is missing or not installed; OR
- Guardrail is not functionally adequate.

Heating, Ventilation, and Air Conditioning (HVAC)

- The inspection date is on or between October 1 and March 31 and there is no permanently installed heating source and the interior temperature is below 60 degrees Fahrenheit and the exterior temperature is below 50 degrees Fahrenheit;
- The permanently installed heating source does not turn on or only produces cold or room temperature air;
- The permanently installed cooling system does not turn on or only produces hot or room temperature air;
- Unvented space heater that burns gas, oil, or kerosene is present;
- Combustion chamber cover or gas shutoff valve is missing from a fuel burning heating appliance; OR
- Fuel burning heating system or device exhaust vent is misaligned, blocked, disconnected, improperly connected, damaged, or missing.

Leak – Gas or Oil

- Natural gas, propane, or oil leak.

Mold-like Substance

- Presence of mold-like substance at extremely high levels is observed visually.

Smoke Alarm

- Smoke alarm is not installed where required;
- Smoke alarm is obstructed; OR
- Smoke alarm does not produce an audio or visual alarm when tested.

Sprinkler Assembly

- Sprinkler head assembly is encased or obstructed by an item or object that is within 18 inches of the sprinkler head;
- Sprinkler assembly component is damaged, inoperable, or missing and it is detrimental to performance;
- Sprinkler assembly has evidence of corrosion; OR
- Sprinkler assembly has evidence of foreign material that is detrimental to performance.

Structural System

- Structural system exhibits signs of serious failure.

Toilet

- Only 1 toilet was installed, and it is missing.

Water Heater

- Chimney or flue piping is blocked, misaligned, or missing; OR
- Gas shutoff valve is damaged, missing, or not installed.

8-I.F. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice such as items that are depreciated out over time due to losing value due to age.
- If the AHA determines that the family has purposely disconnected the smoke detector (by removing batteries or other means), the family will be required to repair the smoke detector within 24 hours and the AHA will reinspect the unit the following day. The AHA will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. This warning will state that deliberate disconnection of the unit's smoke detector is a safety and fire hazard and is considered a violation of HQS

If a family fails to correct a family caused life threatening condition as required by the AHA, the AHA may terminate the family's assistance. See 8-II.H.

Owner Responsibilities

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

If an owner fails to correct life threatening conditions as required by the AHA, the housing assistance payment will be abated and the HAP contract will be terminated. See 8-II-G.

8-I-G. LEAD-BASED PAINT

PHAs and owners must comply with the requirements and timelines in 24 CFR Part 35 Subpart M—Tenant-Based Rental Assistance and Subpart H—Project-Based Assistance. Any deteriorated paint in target housing, or other lead-based paint hazard identified through a lead-based paint risk assessment or lead-based paint inspection is considered a violation of HQS standards.

For the HCV program, Subpart M applies to units where a child under age six resides or is expected to reside, common areas that service that unit, and exterior painted surfaces associated with that unit or common areas. For PBV programs, Subpart H applies to assisted units and common areas of the property regardless of whether a child under age six resides or is expected to reside in the unit. HQS does not alter any of the lead-based paint requirements in Part 35 for these programs.

SPECIAL REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225]

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the AHA must complete a risk assessment of the dwelling unit. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the AHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the AHA will take action in accordance with Section 8-II.G.

AHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 15.

8-I-H. VIOLATION OF HQS SPACE STANDARDS [24 CFR 5.703(D)(5)]

Units assisted under the HCV or PBV programs must have at least one bedroom or living/sleeping room for each two persons. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. Each habitable room must have two working outlets or one working outlet and a permanent light. HUD defines a habitable room as a room in a building for living, sleeping, eating, or cooking, but excluding bathrooms, toilet rooms, closets, hallways, storage or utility spaces, and similar areas [FR Notice 5/11/23].

A unit that does not meet these space standards is defined as overcrowded.

If the AHA determines that a unit does not meet HQS space standards because of an increase in family size or a change in family composition, the AHA will issue the family a new voucher, and the family and AHA will try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the AHA must terminate the HAP contract in accordance with its terms.

PART II: THE INSPECTION PROCESS

8-II.A. OVERVIEW [24 CFR 982.405]

Types of Inspections

The AHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections*. The AHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection before the effective date of the HAP Contract.

  For units being added or substituted under a project-based HAP contract, these units must pass the HQS inspection before being added or substituted under the contract.

  Self-certification cannot be used on failures of an initial inspection.

- *Pre-Qualifying Initial Inspections.* For participants in the HCV, PBV, FUP, EHV, and SV programs (as allowed under MTW) and VASH program (as allowed under the HUD-VASH Operating Requirements), the AHA will allow initial inspections of units to be conducted up to 90 days prior to unit lease-up. The unit must pass the HQS inspection before the effective date of the HAP Contract. Participants or landlords can request a special (interim) inspection at any time.

- *Periodic Inspections*. The AHA will inspect each unit under lease at least once every three years to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's regular reexamination but also may be conducted separately. The AHA may elect to inspect more frequently if the owner or unit has a history of failing HQS inspections. Periodic inspection schedule will be determined by program:

  - *Annual Inspections*: Moderate Rehabilitation Single Room Occupancy Units

- *Biennial Inspections*: Families and participants ~~under~~ in the Shelter Plus program Care, VASH and EHV programs
- *Risk-Based Triennial Inspections*: Families and participants in the HCV (tenant-based only), FUP, VASH, EHV, and SV as allowed under the AHA's approved ~~included in the~~ MTW ~~program not listed above~~activity. If a household passes their first triennial inspection they will remain on the triennial inspection schedule. If a household fails their first triennial inspection, they will have another inspection the following year. As such, the periodic inspection schedule for households is dependent on the result of the first inspection and the inspection schedule can change accordingly each time.

Under the project-based voucher program, the AHA can inspect a random sample of units at each property, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. If more than 20 percent of the annual sample of inspected contract units in a building fail the first annual inspection, the AHA will inspect all of the contract units in the building.

The AHA reserves the right to inspect any units on an annual basis rather than a biennial or triennial basis.

- *Special Inspections.* A special (interim) inspection may be requested by the AHA, owner, the family, or a third party between inspections.

Participants and landlords can request a special inspection at any time. A special inspection can be initiated by the AHA, if it receives indications that the family's unit is not in compliance with HQS. HUD or other third parties may require special inspections for program compliance.

- *Quality Control Inspections.* HUD requires that a sample of units be reinspected by a supervisor or other qualified individual to ensure that HQS are being enforced correctly and uniformly by all inspectors. A representative sample of both tenant-based and project-based units will be inspected.

Inspection of AHA-owned Units [24 CFR 982.352(b), Federal Register / Vol. 82, No. 134 / Friday, July 14, 2017]

The AHA has obtained the services of an independent entity to perform all HQS inspections in cases where a family is receiving assistance in an AHA-owned unit. An AHA-owned unit is defined as a unit (1) Owned by the AHA; (2) owned by an entity wholly controlled by the AHA (such as Alameda Affordable Housing Corporation); or (3) owned by a limited liability company (LLC) or limited partnership in which the AHA (or an entity wholly controlled by the AHA) holds a controlling interest in the managing member or general partner. The independent entity must communicate the results of each inspection to the family and the AHA. The independent entity has been approved by HUD. The independent entity will provide the AHA and the San Francisco Field Office with the inspection reports.

The AHA may opt to schedule inspections to be completed at the anniversary date of the HAP contract, annually, biennially, or triennially from the last inspection date.

The AHA cannot use self-certification on its own units.

Inspection Costs

The AHA will not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of AHA-owned units, the AHA will compensate the independent entity from ongoing administrative fees for inspections performed. The AHA and the independent entity may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

Notice and Scheduling

The family must allow the AHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:30 a.m. and 5:00 p.m. Inspections will be conducted on business days only, Monday through Friday. In the case of a life-threatening emergency, the AHA will give as much notice as possible, given the nature of the emergency.

Attendance at inspections by owner and family

HUD permits the AHA to set policy regarding family and owner presence at the time of inspection.

When a family occupies the unit at the time of inspection an adult family member or designated adult representative must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

Inspection Under Special Housing Types

See Chapter 15 Part VIII for inspections of special housing types, including Shared Housing.

8-II.B. INITIAL INSPECTION [24 CFR 982.405(A)]

Timing of Initial Inspections

A unit must pass HQS before the effective date of the lease and HAP Contract. To the extent practicable, the AHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 10 calendar days of submission of the Request for Tenancy Approval (RFTA). In all cases, the AHA will inspect the unit within 15 days of the submission of a request for approval of the tenancy. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

Owners interested in offering specific unit(s) for rental to participants under the AHA's subsidy programs, may contact AHA Inspection Team requesting a pre-qualifying initial

inspection at no charge. If the unit passes the pre-qualifying inspection by meeting HQS protocols, Owners must still submit a completed Request for Tenancy Approval (RFTA) for all units being leased to assisted applicants or participants. The AHA may house a family or participant who is eligible to be included under the MTW program in the unit for up to 90 days after the pre-qualifying inspection. If a family or participant who is not included in the MTW program turns in a RFTA for the unit, the unit will need to be re-inspected if the pre-qualifying inspection is more than 30 days old.

Inspection Results and Reinspections

If any HQS violations are identified, the owner will be notified of the deficiencies and be advised to notify the AHA when they have been corrected. The AHA will reinspect the unit within 7 calendar days of the date the owner notifies the AHA that the required corrections have been made. The owner may not use self-certification for initial inspections.

If the unit fails HQS at the time of the reinspection, the AHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The AHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying. Those utilities for which the family will be responsible for paying must have individual meters to determine individual family usage and costs. If a utility has a shared meter, the landlord is responsible for the cost.

If utility service is not available for testing at the time of the initial inspection, the AHA will allow the utilities to be placed in service after the unit has met all other HQS requirements. The AHA will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by the AHA.

Appliances

If the family is responsible for supplying the stove and/or refrigerator, the AHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the AHA. The AHA will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.

8.II.C. PERIODIC INSPECTIONS [24 CFR 982.405(A)]

Scheduling the Inspection

Each unit under HAP contract must have periodic inspections. The schedule for periodic inspections by program can be found in Section 8-II.A Overview Types of Inspections.

If an adult family member or other adult designated by the family cannot be present on the scheduled date for good cause, the family may request that the AHA reschedule the

inspection. The AHA and family will agree on a new inspection date that generally should take place within 7 calendar days of the originally scheduled date.

If the family misses a scheduled appointment for an inspection without notifying the AHA, the AHA will consider the family to have violated its obligation to make the unit available for inspection. Two "no-show" inspections where the family does not make the unit available after reasonable notice may result in termination of the family's assistance in accordance with Chapter 12.

8-II.D. SPECIAL INSPECTIONS

The AHA will conduct a special inspection if the owner, family, or another source reports violations in the unit that would fail inspection protocol.

During a special inspection, the AHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the periodic inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled, the AHA may elect to conduct a full periodic inspection.

For families and participants included in the MTW program, the family or landlord may request a special inspection at any time.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(B)]

HUD requires an AHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding 3 months. The selected sample will include (1) each type of inspection (initial, periodic, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8.II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Correction Timeframes

Each deficiency is identified in the NPSIRE standards as either life-threatening, severe, moderate, or low.

For units under HAP contract, life-threatening deficiencies must be corrected within 24 hours after notice has been provided. All other non-life-threatening deficiencies (severe and moderate) must be corrected within 30 days (or an AHA-approved extension) after notice has been provided. If low deficiencies are present in a unit, these deficiencies result in a pass and would only be noted by the inspector for informational purposes.

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the AHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

In the case of a project-based unit, the AHA will not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the AHA determines that a unit does not comply with HQS, the AHA will follow the same procedure for notice, corrective action, abatement and termination of PBV-assistance for the HAP contract unit as provided for units in the tenant-based voucher program. (Also see Sections 16-III.D. and 16-IX.A.).

When life threatening conditions are identified, the AHA will immediately notify both parties. The first level of notice is in-person during the inspection, and this will begin the 24-hour correction period. If either party is not present at the inspection, the next level of notice will be by telephone at the telephone number of record, with a verbal message left if possible, and this will serve as the start of the 24-hour correction period. If the AHA has an email address for either or both parties, notice will be sent via email as well. As a last resort, the notice will be mailed, but this does not remove the 24-hour requirement for correction of the life-threatening condition. The notice will specify who is responsible for correcting the violation. The responsible party must correct the defect within 24 hours.

When failures that are not life-threatening are identified, the AHA will send the owner and the family a written notification of the inspection results within seven calendar days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. The responsible party must correct the defect within 30 calendar days from the date of the failed inspection (or by the end of any AHA-approved extension).

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any AHA-approved extension), the owner's HAP will be abated in accordance with AHA policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any AHA-approved extension, if applicable) the family's assistance will be terminated in accordance with AHA policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the AHA cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the AHA may grant an exception to the required time frames for correcting the violation, if the AHA determines that an extension is appropriate [24 CFR 982.404]. A retroactive extension may be requested for 10 days after the date of the letter of abatement but must be approved by the director.

Extensions will be granted in cases where the AHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.

- A repair is expensive (e.g., exterior painting or roof repair) and the owner needs time to obtain funds.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days once the weather conditions have subsided.

Owners must make requests for extensions in writing and include verification of the reason the extension is needed.

Reinspections and Self-Certification

For failures due to life-threatening conditions, the AHA will conduct a reinspection on the following day to document that the defect was corrected within 24 hours.

For non-life-threatening defects, if there are fewer than five fail items in the first inspection, self-certification by the owner and tenant can be used to establish compliance with HQS. For a re-inspection with fewer than two fail items, self-certification can be used. Owner/Landlord must have a documented history of HQS compliance through AHA to qualify for the use of this Owner/Tenant Certification of Repairs form. AHA may verify the completeness of all repairs by a Quality Control Inspection within 90 days of the initial date of inspection.

If there are more than five fail items, the AHA will schedule a reinspection approximately one week before the end of the 30-day corrective period, or any AHA-approved extension. The family and owner will be given reasonable notice of the reinspection appointment.

If the deficiencies have not been corrected by the time of the reinspection or if the AHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the AHA will immediately send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family in accordance with Chapter 12, in accordance with AHA policies.

8.II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the AHA must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the AHA, HUD requires the AHA to abate HAP no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. AHA will terminate HAP on the 31st day after the inspection. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the tenant-based voucher holder family's responsibility.

Owner rents are abated for project-based units regardless of fault. (See Sections 16-III.D. and 16-IX.A.).

The AHA will abate HAP beginning with the first day of the month after the AHA specified correction period (including any extension) has been reached and the owner has failed to make the correction.

The AHA will inspect abated units within seven calendar days of the owner's notification that the work has been completed. (Self-certification cannot be used with abated units.) Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination

The AHA must decide how long any abatement period will continue before the HAP contract will be terminated. The AHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time and will give the owner reasonable notice of the termination. The AHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

The maximum length of time HAP may be abated is 90 days. Reasonable notice of HAP contract termination by the AHA is 30 days. In general, if HQS defects for which HAP is being abated are not corrected by the end of the first month of HAP abatement, the AHA will notify the owner that the HAP contract will be terminated no later than the end of the 90-day abatement period. The AHA will issue a voucher to the tenant family if this has not already been requested by the family. If the owner completes corrections and notifies the AHA before the termination date of the HAP contract, however, the AHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit, and (2) the unit passes inspection.

8.II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(B)]

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the AHA (and any extensions), the AHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

PART III: RENT REASONABLENESS [24 CFR 982.507]

8-III.A. OVERVIEW

No HAP contract can be approved until the AHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

AHA-owned Units [24 CFR 982.352(b), Federal Register / Vol. 82, No. 134 / Friday, July 14, 2017]

In cases where an HCV family is receiving assistance in a AHA-owned unit, the AHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. AHA-owned unit is defined as a unit that is (1) Owned by the AHA; (2) owned by an entity wholly controlled by the AHA (such as Alameda Affordable Housing Corporation); or (3) owned by a limited liability company (LLC) or limited partnership in which the AHA (or an entity wholly controlled by the AHA) holds a controlling interest in the managing member or general partner. The independent agency must communicate the results of the rent reasonableness determination to the family and the AHA. The independent agency must be approved by HUD and may be the unit of general local government for the AHA jurisdiction (unless the AHA is itself the unit of general local government or an agency of such government).

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-initiated Rent Determinations

The AHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment. See 9-I.H. Changes in Lease or Rent for additional information about requesting rent adjustments.

The owner and family first negotiate the rent for a unit. The AHA (or independent agency in the case of AHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the AHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the AHA may request owners to provide information about the rents charged for other units on the premises. In evaluating the proposed rents in comparison to other units on the premises the AHA will consider unit size and length of tenancy in the other units. The AHA will determine whether the requested increase is reasonable within 30 calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

Rent increases must be in compliance with Assembly Bill 1482, also known as the Tenant Protections Act of 2019, for all units that are not exempted by this Bill. If the AHA finds that a rent increase for a non-exempted unit is not in compliance with this Bill, the AHA will notify the owner in writing and provide an opportunity for the owner to revise their request to be in compliance.

If the request for rent increase coincides with the annual reexam, the adjustment will be effective on the same date the annual reexam takes effect. All other rents adjustments will be effective the first of the month following 60 days after the AHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

AHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the AHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the AHA to make a determination at any other time. The AHA may decide that a new determination of rent reasonableness is needed at any time.

In addition to the instances described above, the AHA will always make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the AHA determines that the initial rent reasonableness determination was in error or (2) the AHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires AHA to take into consideration the factors listed below when determining rent comparability. The AHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

Units that Must Not be Used as Comparables

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized

by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the AHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the AHA information regarding rents charged for other units on the premises.

8-III.D . AHA RENT REASONABLENESS METHODOLOGY

How Market Data is Collected

The AHA may collect and maintain data on market rents in the AHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 24 months old will be eliminated from the database. AHA is choosing to use an automated database system at this time. If adequate information of unassisted units is not available in the automated database AHA will use the aforementioned process to determine reasonable rents.

How Rents are Determined

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The AHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the AHA may make adjustments to the range of prices to account for these differences.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost $20,000 to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable

project reports rents of $500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

The AHA will notify the owner of the rent the AHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The AHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 7 calendar days of the AHA's request for information or the owner's request to submit information.

CHAPTER 16

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. General provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. Policies related to the submission and selection of owner proposals for PBV assistance. This part describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. Requirements related to Housing Quality Standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. Requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, this part describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. Requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. Occupancy requirements related to the lease, and describes under what conditions families are allowed or required to move.

Part VIII: Determining Rent to Owner. Determining the initial rent to owner, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. Types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

16-I.A. OVERVIEW [24 CFR 983.5]

The project-based voucher (PBV) program allows the AHA, which already administers a tenant-based voucher program under an annual contributions contract (ACC) with HUD, to operate a PBV program using up to 50 percent of its voucher unit allocation under an approved MTW activity and attach the funding to specific projects rather than using it for tenant-based assistance [24 CFR 983.6]. As defined in 24 CFR 983.3(b), a project can be a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land. "Contiguous" in this definition includes "adjacent to," as well as touching along a boundary or a point. The AHA will only operate a PBV program, at its discretion up to 50 percent of its voucher unit allocation if the AHA has the funding for these units, consistent with its Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)]. Under an approved MTW activity, at its discretion the AHA can have up to 100% PBV units at a project.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52].

The AHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

The AHA must notify HUD of its intent to project-base its vouchers and when the PHA executes, amends, or extends a HAP contract.

16-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the AHA policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

16-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program will be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. The AHA will not use voucher program funds to cover relocation costs.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the AHA to ensure the owner and any representatives of the owner, such as a property manager, comply with these requirements.

16-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

The AHA, owners and property managers must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a).

In addition, the AHA will comply with the AHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

16-II.A. OVERVIEW

In this document, the AHA will describe the procedures for owner or owner's designee submission of PBV proposals, AHA selection of PBV proposals, describe how the AHA will determine that PBV proposals comply with HUD program regulations and requirements, that proposals comply with the cap on the number of PBV units per project, and meet site selection standards.

Under approved MTW Activity 2022-10, AHA can award project-based voucher units to a property owned by a single-asset entity (S.A.E.) of the AHA without engaging in a selection process after conducting a Subsidy Layering Review, ensuring the property is compliant with HUD's site selection requirements, and having a 3rd party conduct HQS inspections of the units. Therefore, Section 16-II.B. does not apply if the AHA decides to award PBV units under this activity.

16-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

The AHA will select PBV proposals in accordance with the selection procedures in this AHA Administrative Plan.

An owner may submit, and the AHA may select, a single proposal covering multiple projects where each project consists of a single-family building, provided all projects are the same housing type (existing, rehabilitated, or newly constructed).

Under approved MTW Activity 2022-10 Elimination of PBV Selection Process for PHA-owned Projects without Improvement, Development, or Replacement, AHA can award project-based voucher units to a property owned by a single-asset entity (S.A.E.) of the AHA without engaging in a selection process. This MTW activity allows the AHA to award vouchers, without using the PBV proposal process, to units in the AHA's portfolio that qualify for PBV after including a statement of the AHA's intent to make a noncompetitive selection in its 5-Year Plan or an amendment to its 5-Year Plan, conducting a Subsidy Layering Review, if necessary, ensuring the property is compliant with HUD's site selection requirements, and having a 3rd party conduct HQS inspections of the units. Therefore, Section 16-II.B. does not apply if the AHA decides to award PBV units under this activity. The decision to use this MTW Activity versus the full RFP process as outlined below is at the discretion of the AHA.

If a selection process is to be used (MTW Activity 2022-10 allows award without a selection process), the AHA will select PBV proposals by either of the following two methods.

- AHA request for PBV Proposals. The AHA may solicit proposals by using a Request For Proposals (RFP) to select proposals on a competitive basis in response to the AHA request. The AHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- AHA selection of a proposal previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(d)]

AHA procedures for selecting PBV proposals are designed and operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the AHA.

AHA Request for Proposals Units

The AHA will advertise its request for proposals (RFP) for rehabilitated, newly constructed and/or existing housing in one of the following newspapers:

- Alameda Journal/Bay Area Newsgroup
- Alameda Sun

In addition, the AHA will post the RFP and proposal submission and selection procedures on its website (www.alamedahsg.org).

The AHA will publish its notice at least once in the newspapers mentioned above. The notice will specify the number of units the AHA estimates that it will be able to assist under the funding the AHA is making available. Proposals will be due in the AHA office by close of business no less than three weeks from the date of publication.

In order for the proposal to be considered, the owner or owner's designee (hereinafter referred to as "owner") must submit the proposal to the AHA by the published deadline date and time, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed. All proposals will be time and date stamped upon submission.

The AHA will rate and rank proposals for rehabilitated, newly constructed, or existing housing using the criteria listed on the corresponding Ranking and Selection Checklist in the RFP advertisement and on the AHA website.

An application that does not meet the minimum points in each category will not be considered. The minimum number of points an application must have to proceed in the process is 60% of the total maximum available points. If there are a limited number of vouchers available, as stated in the RFP, the vouchers will be awarded to the applicant with the highest number of points. In the event of a tie, the RFP will specify the method used to break the tie such as the date and time of submission or random selection.

The Ranking and Selection Checklist for rehabilitated or newly constructed housing will include, but is not limited to, the following scoring components:

- Site location adequacy (such as proximity to transit, recreation and parks, libraries, supermarkets, community centers, pharmacies, and other mainstream services);
- Design adequacy (amenities and physical layout of project to meet the needs of the population served);
- Project Feasibility – Financial;
- Project Feasibility – Developer and Management experience;
- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers the goal of deconcentrating poverty and expanding housing and economic opportunities;
- Social Services provided onsite; and
- Other criteria stated in the RFP.

The Ranking and Selection Checklist for Existing Housing will include, but will not be limited to, the following scoring components:

- Site location (such as proximity to transit, recreation and parks, libraries, supermarkets, community centers, pharmacies, and other mainstream services);
- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers the goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Other criteria stated in the RFP.

AHA Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The AHA will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits after an announcement of its acceptance of proposals. AHA will ensure that the Previous Competitive Selection which is the basis for selection for PBV assistance is made without regard to the possibility of PBV assistance.

The AHA may periodically advertise that it is accepting proposals, specifying the number of vouchers available for this purpose in one of the following newspapers:

- Alameda Journal/ Bay Area Newsgroup
- Alameda Sun

The AHA will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers the AHA goal of deconcentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community; and
- The rating factors outlined in the previous section.

The AHA may decide not to make an award if the selection of the project is not consistent with the AHA's Annual Plan or voucher leasing strategy, such as the AHA does not have additional funds to assist additional contract commitments.

AHA-owned Units [24 CFR 983.51(h) and 983.57]

If the AHA chooses to accept RFP proposals through the above processes and AHA submits a proposal for project-based housing that is owned or controlled by the AHA, as defined by PIH Notice 2017-21, AHA will:

- Seek approval from the HUD Field Office or independent entity which will review the project selection process the PHA undertook and determines that the project was appropriately selected based on the selection procedures specified in the PHA Administrative Plan.
- Use an independent entity which meets HUD approval to perform HQS inspections.
- Use an independent entity which meets HUD approval to determine rents and rent reasonableness.
- Will obtain HUD approval for the services of these entities prior to selecting the proposal for AHA-owned housing.

The AHA can use its ongoing administrative fee income to compensate the independent entity. Under MTW, the AHA can also use other sources of funds for these payments provided that such use is consistent with the Annual Plan and MTW Supplement. The AHA, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

AHA Notice of Owner Selection [24 CFR 983.51(f)]

For projects selected from a RFP under the competitive selection method, within 14 calendar days of the AHA making a selection, the AHA will notify the selected owner in writing of the owner's selection for the PBV program. The proposal selection date is the date on which the AHA provides written notice to the party that submitted the selected proposal. Within 14 calendar days from the date of the notification letter, the owner or party that submitted the selected proposal must provide a written response to the AHA

accepting the terms and requirements stated in the notice. The AHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner(s).For projects selected as part of the noncompetitive process, the AHA will provide written notice of project selection to the owner 14 calendar days following the AHA board's resolution approving the project-basing of assistance at the specific project. The project selection date is the date of the AHA's board resolution approving the project-basing of assistance at the specific project. Within 14 calendar days from the date of the notification letter, the owner or party that submitted the selected proposal must provide a written response to the AHA accepting the terms and requirements stated in the notice.

In addition, the AHA will publish its notice for selection of PBV proposals in the same newspapers that the AHA used to solicit the proposals. The announcement will include the name of the owner and address of units selected for the PBV program. The AHA will also post the notice of owner selection on its website.

When an environmental review is required, if such a review has not been conducted prior to the project or proposal selection date, the AHA's written notice of project or proposal selection must state that the selection is subject to completion of a favorable environmental review and that the project or proposal may be rejected based on the results of the environmental review in accordance with 983.56(c).

If the project contains AHA-owned units that are not owned by a separate legal entity from the AHA, the AHA must provide the written notice of proposal or project selection to the responsible AHA official, and that official must certify in writing that the AHA accepts the terms and requirements stated in the notice.

The AHA will make available to any interested party its rating and ranking sheets and documents that identify the AHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The AHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The AHA will make these documents available for review at the AHA during normal business hours. The cost for reproduction of allowable documents will be 10¢ per page.

16-II.C. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.52]

The AHA will not attach or pay PBV assistance for any of the following housing types:

- Shared housing units;
- Units on the grounds of a penal reformatory, medical, mental, or similar public or private institution;
- Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities);
- Units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students;

- Manufactured homes are ineligible only if the manufactured home is not permanently affixed to a permanent foundation or the owner does not own fee title to the real property (land) on which the manufactured home is located; and
- Transitional housing.

In addition, the AHA will not attach or pay PBV assistance for a unit occupied by an owner (a member of a cooperative who owns shares in the project assisted under the PBV program shall not be considered an owner for purposes of participation in the PBV program) and the AHA will not select or enter into an AHAP or enter into a HAP contract for a unit occupied by a family ineligible for participation in the PBV program.

In addition, the AHA may not execute a HAP contract for units on which construction or rehabilitation commenced after the date of proposal submission (for housing subject to competitive selection) or the date of the AHA's board resolution approving the project-basing of assistance at the project (for housing excepted from competitive selection) and prior to the effective date of an Agreement. At HUD's sole discretion, HUD may approve a AHA's request for an exception to this prohibition. In determining whether to approve the AHA request, HUD will consider appropriate factors, including the nature and extent of the construction or rehabilitation that has commenced.

Subsidized Housing [24 CFR 983.53]

The AHA will not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 521 rental assistance payments (except that the AHA could attach assistance to a unit subsidized with Section 515 interest reduction payments);
- A Section 202 project for non-elderly persons with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the AHA in accordance with HUD requirements.

Other Ineligible Housing Types

Due to the need for more one-, two-, and three- bedroom units, the AHA will not attach or pay PBV assistance for group homes or single room occupancy (SRO) units.

16-II.D. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.153]

The AHA will provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements. The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

A subsidy layering review is not required for existing housing. A subsidy layering review is required for newly constructed and rehabilitated housing and requirements can be found at 24 CFR 983.153.

The AHA will submit the necessary documentation to HUD for a subsidy layering review for new construction and rehabilitation projects. The AHA will not enter into an AHAP contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP contract will contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

According to 24 CFR 981.11, for newly constructed or rehabilitated housing under a HAP contract, the owner must disclose to the PHA, in accordance with HUD requirements, information regarding any additional related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof. Such related assistance includes but is not limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance. If this additional assistance meets certain threshold and other requirements established by HUD through publication in the Federal Register, a subsidy layering review may be required to determine if it would result in excess public assistance to the project. Housing assistance payments must not be more than is necessary, as determined in accordance with HUD requirements, to provide affordable housing after taking account of such related assistance. The AHA must adjust, in accordance with HUD requirements, the amount of the housing assistance payments to the owner to compensate in whole or in part for such related assistance.

If before or during the HAP contract, the owner receives additional HUD or other governmental assistance for the project that results in an increase in project financing in an amount that is equal to or greater than 10 percent of the original development budget, the Owner must report such changes to the AHA and the AHA must notify the HCA, or HUD (if there is no participating HCA in their jurisdiction), that a further subsidy layering review is required.

16-II.E. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT [24 CFR 983.54]

Under MTW, the AHA can waive 24 CFR 983.56(a) as amended by HERA and HOTMA which caps PBV projects at 25 units or 25 percent of a project. This allows the AHA to award more than the cap of the greater of 25 units or 25% of the units at a complex to receive Project-Based Voucher assistance. The AHA may select to award up to 100% of

the units at a project regardless of the supportive services being provided or if the units are for the elderly; however, the AHA would include this information in any notices of acceptance of proposals such as a request for proposals. The AHA is not required to assist projects at the 100% level as the AHA will limit PBV assistance to make the project viable without over subsidizing the project.

PBV units selected prior to the AHA's implementation of MTW Activities (June 2023) will meet the conditions under which the unit was selected or the contract was executed. For example, if the units were selected because they were providing supportive services, the complex must continue to provide supportive services and verification of providing those services.

Supportive Services

The types of supportive services offered to families for a project to qualify for the exception are those intended to promote self-sufficiency, including:

- Outreach
- Case management, counseling
- Health care, psychiatric and mental health care, substance abuse treatment
- Life skills, parenting skills
- Child care, transportation, housing search assistance, budgeting
- Employment assistance, job training/placement
- Education, vocational opportunities

Supportive services do not have to be provided at the project site. When supportive services are provided, whether or site or not, the following conditions apply:

- The AHA will ensure that only families eligible to receive supportive services are assisted.

To qualify, a family must have at least one member eligible to receive at least one qualifying supportive service. The AHA will not require participation in supportive services. A family that becomes ineligible for the supportive services may not be terminated from the program or evicted from the unit.

The AHA will monitor the complexes offering of supportive services for contracts signed requiring supportive services. Monitoring will be accomplished by requiring the owner to provide annual reports on the services offered and confirming this information with the tenant at the regularly scheduled re-examination.

16-II.F. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and Site Standards [24 CFR 983.55]

The AHA will not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an AHAP contract or HAP contract for units on the site, unless the AHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities.

The standard for deconcentrating poverty and expanding housing and economic opportunities will be consistent with the Agency Plan under 24 CFR 903 and this Administrative Plan. In developing the standards to apply in determining whether a proposed PBV development will be selected, the AHA will consider the following:

- Whether the census tract in which the proposed PBV development will be located is in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;
- Whether a PBV development will be located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;
- Whether the census tract in which the proposed PBV development will be located is undergoing significant revitalization;
- Whether State, local, or Federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement;
- Whether new market rate units are being developed in the same census tract where the proposed PBV development will be located and the likelihood that such market rate units will positively impact the poverty rate in the area;
- If the poverty rate in the area where the proposed PBV development will be located is greater than 20 percent, the AHA will consider whether in the past five years there has been an overall decline in the poverty rate;
- Whether there are meaningful opportunities for educational and economic advancement in the census tract where the proposed PBV development will be located.

In addition, prior to selecting a proposal, the AHA will determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and similar regulations as described in 24 CFR 983.55(b)(2).

In addition, the site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants. The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, that could affect the health or safety of the project occupants, such as dangerous walks or steps; contamination; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.55]

The AHA will not enter into an AHAP for units that will be rehabilitated, nor execute a HAP contract for existing units until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;

- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those found in neighborhoods consisting largely of unassisted, standard housing of similar market rents; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing a range of jobs for lower-income workers is not excessive. While it is important that housing for the elderly not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.

New Construction Site and Neighborhood Standards [24 CFR 983.55]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD-required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the AHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate unless there is actively in progress a concerted program to remedy the undesirable conditions;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services that are at least equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

16-II.G. ENVIRONMENTAL REVIEW [24 CFR 983.56]

The AHA's activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. For projects or proposals that were selected in accordance with the site selection standards at 24 CFR 983.55 in effect on or after June 6, 2024, no environmental review is required to be undertaken before entering into a HAP contract for existing housing, except to the extent a Federal environmental review is required by law or regulation relating to funding other than PBV housing assistance payments.

The *responsible entity* (i.e., City of Alameda) is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) and related applicable Federal laws and authorities in accordance with 24 CFR 58.5 and 58.6. If the AHA objects in writing to having the responsible entity perform the Federal environmental review, or if the responsible entity declines to perform it, then HUD may perform the review itself (24 CFR 58.11).

When an environmental review is required the AHA will not enter into an AHAP contract nor enter into a HAP contract until it has complied with the environmental review requirements. The AHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for these activities, until one of the following occurs:

1. The responsible entity has determined that the activities to be undertaken are exempt under 24 CFR 58.34(a) or categorically excluded and not subject to compliance with environmental laws under 24 CFR 58.35(b);
2. The responsible entity has completed the environmental review procedures required by 24 CFR part 58, and HUD has approved the AHA's Request for Release of Funds and Certification (form HUD-7015.15). HUD approves the Request for Release of Funds and Certification by issuing a Letter to Proceed or form HUD-7015.16, thereby authorizing the AHA to execute an Agreement or HAP contract, as applicable; or
3. HUD has performed an environmental review under 24 CFR part 50 and has notified the AHA in writing of environmental clearance.

The AHA must document any mitigating measures or other conditions as provided in 24 CFR part 50 or 58, as applicable, and must complete or require the owner to carry out such measures and conditions.

The AHA will supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The AHA requires the owner to carry out mitigating measures required by the City of Alameda (or HUD, if applicable) as a result of the environmental review.

16-II.H. AHA DETERMINATION PRIOR TO SELECTION [24 CFR 983.57]

The AHA must calculate the number of authorized voucher units that it is permitted to project-base in accordance with 24 CFR 983.6 and determine the amount of budget authority that it has available for project-basing in accordance with 24 CFR 983.5(b),

before it issues a request for proposals in accordance with 24 CFR 983.51(b)(1), makes a selection based on a previous competition in accordance with 24 CFR 983.51(b)(2), amends an existing HAP contract to add units in accordance with 24 CFR 983.207(b), or noncompetitively selects a project in accordance with 24 CFR 983.51(c).

In addition, prior to selecting a project for PBV assistance, the AHA must perform an analysis of the impact if project-basing 50 percent or more of the AHA's authorized voucher units. The analysis should consider the ability of the AHA to meet the needs of the community across its tenant-based and project-based voucher portfolio, including the impact on, among others: families on the waiting list and eligible PBV families that wish to move under 24 CFR 983.261. The analysis performed by the AHA will be made available as part of the public record.

PART III: DWELLING UNITS

16-III.A. OVERVIEW

This part identifies the special Housing Quality Standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting Housing Quality Standards inspections.

16-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The Housing Quality Standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

Lead-based Paint [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

16-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

Housing will comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The AHA will ensure that the percentage of accessible dwelling units complies with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, will comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

16-III.D. INSPECTING UNITS

Pre-selection Inspection [24 CFR 983.103(a)]

If the units to be assisted already exist, the AHA will inspect all the units before the proposal or project selection date and will determine whether the project meets the definition of existing housing. If the project is existing housing, the PHA may not execute the HAP contract until all units meet the initial inspection requirements in accordance with 24 CFR 983.103(c).

Initial Inspections [24 CFR 983.103(b) and 983.103(c)]

The AHA will inspect each contract unit before execution of the HAP contract. The AHA will not enter into a HAP contract covering a unit until the unit fully complies with HQS. Under MTW Activity 2022-06, the AHA may pre-qualify a unit by inspecting it up to 90 days prior to the HAP contract execution.

Turnover Inspections [24 CFR 983.103(d)]

Before providing assistance to a new family in a contract unit, the AHA will inspect the unit. The AHA will not provide assistance on behalf of the family until the unit fully complies with HQS.

Periodic Inspections [24 CFR 983.103(e)]

At least annually during the term of the HAP contract, the AHA will inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. The sample will be selected at random. A database of the units will be maintained which can be exported to a random number generator, such as contained in Excel or random.org, that will allow 20 percent of the total units to be selected at random. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the AHA will reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(f)]

If the AHA receives notice from a participant family or government official that a life-threatening condition exists in a unit, an inspection will be performed and the owner will be notified if the life-threatening deficiency is confirmed within 24 hours. The owner must then make the repairs within 24 hours of AHA's notification. If a reported deficiency is non-life-threatening, an inspection will be performed within 15 days of the report.

If the reported deficiency is non-life-threatening, the AHA will, within 15 days, both inspect the unit and notify the owner if the deficiency is confirmed. The owner must then make the repairs within 30 days of the notification from the AHA or within any AHA-approved extension.

In the event of extraordinary circumstances, such as if a unit is within a presidentially declared disaster area, HUD may approve an exception of the 24-hour or the 15-day inspection requirement until such time as an inspection is feasible.

The AHA will inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The AHA will take into account complaints and any other information coming to its attention in scheduling inspections.

The AHA will conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting AHA supervisory quality control HQS inspections, the AHA will include a representative sample of both tenant-based and project-based units.

Inspecting AHA-owned Units [24 CFR 983.103(g)]

In the case of AHA-owned units, the inspections will be performed by an independent agency designated by the AHA and approved by HUD. The independent entity will furnish a copy of each inspection report to the AHA and to the HUD San Francisco field office. The AHA will take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the AHA-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

16-IV.A. OVERVIEW [24 CFR 983.151 AND 24 CFR 983.152]

An owner may undertake development activity, as defined at 24 CFR 983.3, for the purpose of:

- Placing a newly constructed or rehabilitated project under a HAP contract; or
- For a rehabilitated project that will undergo development activity after HAP contract execution, completing the requirements of the rider in accordance with 24 CFR 983.157.

There are specific requirements that apply to PBV assistance for newly constructed, rehabilitated housing, or existing housing. This part describes the requirements unique to this type of assistance.

16-IV.B. DEVELOPMENT REQUIREMENTS [24 CFR 983.153]

Environmental Review Requirements

The development activity must comply with any applicable environmental review requirements at 24 CFR 983.56.

Subsidy Layering Review Requirements

Existing housing is exempt from subsidy layering requirements.

The AHA can only provide PBV assistance in accordance with the HUD subsidy layering regulations (24 CFR 4.13) and other requirements.

A subsidy layering review is required when an owner undertakes development activity and housing assistance payment subsidy under the PBV program is combined with other

governmental housing assistance from Federal, State, or local agencies, including assistance such as tax concessions or tax credits. The subsidy layering review is intended to prevent excessive public assistance for the housing by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from Federal, State, or local agencies, including assistance such as tax concessions or tax credits.

If a subsidy layering review is required, the AHA can only execute an Agreement or HAP contract with an owner after HUD or a housing credit agency approved by HUD has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

A further subsidy layering review is not required if HUD's designee has conducted a review in accordance with HUD's PBV subsidy layering review guidelines and that review included a review of PBV assistance.

The owner must disclose to the AHA any change to the information provided for purposes of the subsidy layering review, including the amount of assistance or number of units to be developed, that occurs after the subsidy layering review has been conducted and before all contract units are placed under the HAP contract, in accordance with HUD requirements. A subsidy layering review may be required to determine if such a change would result in excess public assistance to the project, as required by HUD through notification in the Federal Register.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements, unless the owner discloses additional assistance in accordance with HUD requirements. A subsidy layering review is required for newly constructed or rehabilitated housing under a HAP contract that receives additional assistance, as described in 24 CFR 983.11(d).

Labor Standards Requirements

In the case of development involving nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in development of the housing and must comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable Federal labor relations laws and regulations. The AHA will monitor compliance with labor standards.

For any project to which labor standards apply, the AHA's written notice to the party that submitted the selected proposal or board resolution approving project-basing of assistance at the specific project, as applicable per 24 CFR 983.51(f), must state that any construction contracts must incorporate a Davis-Bacon contract clause and the current applicable prevailing wage determination.

Equal Employment Opportunity

Development activity is subject to the Federal equal employment opportunity requirements of Executive Orders 11246, 12432, and 12138.

Accessibility Requirements

The following accessibility requirements apply to development activity:

- The design and construction requirements of the Fair Housing Act and implementing regulations at 24 CFR 100.205;
- The accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and regulations at 24 CFR part 8; AND
- Title II of the Americans with Disabilities Act and regulations at 28 CFR part 35;

A description of any required work item resulting from these requirements must be included in the Agreement or HAP contract (if applicable).

Broadband Infrastructure Requirements

Any development activity that constitutes substantial rehabilitation as defined by 24 CFR 5.100 of a building with more than four rental units and where the proposal or project selection date or the start of the development activity while under a HAP contract is after January 19, 2017, must include installation of broadband infrastructure, as this term is defined in 24 CFR 5.100, except where the owner determines and documents the determination that:

- The location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible;
- The cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or
- The structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible.

A description of any required work item resulting from these requirements must be included in the Agreement or HAP contract (if applicable).

Eligibility to Participate in Federal Programs and Activities Requirement

An owner or project principal who is on the U.S. General Services Administration list of parties excluded from Federal procurement and non-procurement programs, or who is debarred, suspended subject to a limited denial of participation, or otherwise excluded under 2 CFR part 2424, may not participate in development activity or the rehabilitation of units subject to a HAP contract. Both the Agreement (if applicable) and the HAP contract must include a certification by the owner that the owner and other project principals (including the officers and principal members, shareholders, investors, and other parties having a substantial interest in the project) are not on such list and are not debarred, suspended subject to a limited denial of participation, or otherwise excluded under 2 CFR part 2424.

An owner must disclose any possible conflict of interest that would be a violation of the Agreement (if applicable), the HAP contract, or HUD regulations, in accordance with § 982.161 of this title.

16-IV.C. DEVELOPMENT AGREEMENT [24 CFR 983.154]

In order to offer PBV assistance in rehabilitated or newly constructed units, the AHA will enter into an agreement to enter into an HAP contract (Agreement or AHAP) with the owner of the property. The Agreement will be in the form required by HUD [24 CFR 983.154].

In the AHAP, the owner agrees to develop the PBV contract units to comply with HQS, and the AHA agrees that, upon timely completion of such development in accordance with the terms of the Agreement, the AHA will enter into an initial HAP contract with the owner for the contract units [24 CFR 983.156(b)]. The Agreement must cover a single project, except one Agreement may cover multiple projects that each consist of a single-family building.

Timing of the Agreement

The effective date of the Agreement must be on or after the date the Agreement is executed. The Agreement must be executed and effective prior to the commencement of development activity as described below.

Commencement of Development Activity

Development activity must not commence after the date of proposal submission (for housing subject to competitive selection) or the date of the AHA's board resolution approving the project-basing of assistance at the project (for housing excepted from competitive selection) and before the effective date of the Agreement.

In the case of new construction, development activity begins with excavation or site preparation (including clearing of the land).

In the case of rehabilitation, development activity begins with the physical commencement of rehabilitation activity on the housing.

Content of the Agreement [24 CFR 983.154(e)]

At a minimum, the AHAP will describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (square footage) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (without charges in addition to rent) and utility services to be paid by the tenant;
- A description of any required work item necessary to comply with the accessibility requirements of 983.153(e);
- A description of work to install broadband infrastructure;
- Estimated initial rents to owner for the contract units;

- Description of the work to be performed under the Agreement. For rehabilitated units, the description will include the rehabilitation work write up and, where determined necessary by the AHA, specifications and plans. For new construction units, the description will include the working drawings and specifications;
- Deadline for completion of the work to be performed under the Agreement; and
- Any additional requirements for quality, architecture, or design over and above HQS.

16-IV.D. COMPLETION OF HOUSING

The AHAP will specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The AHAP will also specify the deadline for submission by the owner of the required evidence of completion.

Evidence of Completion [24 CFR 983.155]

At a minimum, the owner must submit the following evidence of completion to the AHA in the form and manner required by the AHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the AHAP;
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing; and
- Certificate of Occupancy (for new construction) or Final Building Permit cards (for rehabilitation projects) from the City of Alameda.

AHA Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, the AHA will inspect the housing to determine if it has been completed in accordance with the AHAP, including compliance with HQS and any additional requirements imposed under the AHAP. The AHA also will determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the AHAP, the AHA will not enter into the HAP contract.

If the AHA determines the work has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion, the AHA will:

- For units developed pursuant to 983.152(a)(1) which will not undergo development activity after HAP contract execution per 983.157, submit the HAP contract for execution by the owner and execute the HAP contract;
- For rehabilitated housing projects for which development activity has commenced prior to HAP contract execution, but which will undergo development activity after HAP contract execution under 983.157(b), submit the HAP contract for execution by the owner and execute the HAP contract;
- For development activity conducted after HAP contract execution, amend the HAP contract rider to designate the completed units as available for occupancy (983.157(f)(1)(ii)) or, if the owner has completed all development activity as

provided in the rider, amend the HAP contract to terminate the rider (983.157(d)); or

- For units that underwent substantial improvement in order to be added to the HAP contract, amend the HAP contract to add the units to the HAP contract (983.207(d)).

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

16-V.A. OVERVIEW

The AHA will enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract will be in the form required by HUD [24 CFR 983.202].

16-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP contract will specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8 , and the Americans with Disabilities Act;
- The HAP contract term;
- The number of contract units under the increased program cap (as described in 983.6(d)) or excepted from the project cap (as described in 983.54(c)) which will be set aside for occupancy by families who qualify for such a unit;
- The initial rent to owner for the first 12 months of the HAP contract term; and
- Whether the PHA has elected not to reduce rents below the initial rent to owner in accordance with 24 CFR 983.302(c)(2).

Execution of the HAP Contract [24 CFR 983.204]

The AHA will not enter into a HAP contract until each contract unit has been inspected and the AHA has determined that the unit complies with pre-HAP contract Housing Quality Standards (HQS) requirements. For existing housing, the HAP contract will be executed "promptly" after the AHA selects the owner proposal and inspects the housing units. "Promptly," in this case, means that the owner must be ready and willing to sign the HAP contract within two months from the date the AHA has completed HQS inspections, found the units in compliance, and has notified the owner of its selection decision.

For newly constructed or rehabilitated housing which will not undergo development activity after HAP contract execution, the HAP contract will be executed after the AHA has inspected the completed units, determined that the units have been completed in accordance with the AHAP, and the owner furnishes all required evidence of completion.

For rehabilitated housing that will undergo development activity after HAP contract execution per 983.157, the HAP contract must be executed and effective promptly after the requirements of 983.157(c) are met (all proposed PBV units are added to the contract at this time, including units that do not comply with HQS or that will undergo development activity).

For rehabilitated or newly constructed housing, the HAP contract will be executed within two months of the AHA determining that the units have been completed in accordance with the AHAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205]

The AHA will enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years.

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis within HUD parameters.

AHA may agree to enter into an extension of the HAP contract at the time of the initial HAP contract execution or any time before the expiration of the contract if the AHA determines an extension is appropriate to continue providing affordable housing for low-income families. The maximum aggregate term for an extension of the HAP contract is 20 years. At no time can the total remaining term of the HAP contract, with extensions, exceed 40 years. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension.

When determining whether or not to extend an expiring PBV contract, the AHA will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

- Whether the funding could be used more appropriately for tenant-based assistance.

Non-extension by Owner [24 CFR 983.206(a)]

If the owner chooses not to extend the PBV contract, the owner must notify the AHA and assisted tenants at least one year before the expiration of the PBV contract, termination of the HAP contract by agreement of AHA and owner as described below, or an owner's refusal to renew the HAP contract. If an owner fails to provide the required notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of an owner's inability to collect an increased tenant portion of rent. An owner and AHA may agree to extend the terminating contract for a period of time sufficient to provide tenants with the required notice, under such terms as HUD may require.

Termination or Expiration Without Extension [24 CFR 983.206(b)]

Unless a termination or expiration without extension occurs due to a determination of insufficient funding or other extraordinary circumstances determined by HUD, the AHA shall issue each family occupying a contract unit a tenant-based voucher based on the termination or expiration of the contract no fewer than 60 calendar days prior to the planned termination or expiration of the PBV HAP contract. However, the AHA is not required to issue the family a voucher if the AHA has offered the family an alternative housing option (e.g., an assisted unit in another PBV project), and the family chooses to accept the alternative housing option instead of the voucher. Such a family is not a new admission to the tenant-based program and shall not count toward the AHA's income-targeting requirements at 24 CFR 982.201(b)(2)(i). The voucher issued to the family is the voucher attached to its unit under the expiring or terminating PBV contract. Consequently, if the family vacates the contract unit following the issuance of the tenant-based voucher and prior to the contract termination or expiration date, the AHA must remove the unit from the PBV HAP contract at the time the family vacates the unit. The PBV HAP contract must provide that, if the units continue to be used for rental housing upon termination or expiration without extension of a PBV HAP contract, each assisted family may elect to use its tenant-based assistance to remain in the same project, subject to the following:

1. The unit must comply with HUD's HQS;
2. The AHA must determine or have determined that the rent for the unit is reasonable;
3. The family must pay its required share of the rent and the amount, if any, by which the unit rent (including the amount allowed for tenant-based utilities) exceeds the applicable payment standard (the limitation at 24 CFR 982.508 regarding maximum family share at initial occupancy shall not apply); and
4. The owner may not refuse to initially lease a unit in the project to a family that elects to use their tenant-based assistance to remain in the same project, except where the owner will use the unit for a purpose other than a residential rental unit. The owner may not later terminate the tenancy of such a family, except for the following grounds:

a. The grounds in 24 CFR 982.310, except paragraphs 24 CFR 982.310(d)(1)(iii) and (iv);
b. The owner's desire to use the unit for a purpose other than a residential rental unit; and
c. The owner's desire to renovate the unit, subject to the following:
    i. The owner must consider whether a reasonable alternative to terminating the lease exists. If a reasonable alternative exists, the owner must not terminate the lease. The owner must consider the following alternatives:
        1. Completing renovations without the family vacating the unit, if the renovations can be completed in a manner that does not result in life-threatening conditions, does not result in deficiencies under HQS that are not corrected within 30 days, and is mutually agreeable to the owner and the family; and
        2. Temporarily relocating the family to complete the renovations, if the relocation and renovations can be completed within a single calendar month (beginning no sooner than the first day of a month and ending no later than the last day of the same month) and the family can be relocated to a location and in a manner mutually agreeable to the owner and the family;
    ii. If the owner terminates the lease for renovation, the owner must make every reasonable effort to make available and lease the family another unit within the project that meets the tenant-based voucher program requirements; and
    iii. If no other unit within the project is available for the family to lease during the renovation period or the family chooses to move from the project during the renovation period, the owner must make every reasonable effort to make available and lease the family a unit within the project upon completion of renovations.

Termination by AHA [24 CFR 983.206(c)]

The HAP contract will provide that the term of the AHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the AHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the AHA may terminate the HAP contract by notice to the owner. The termination will be implemented in accordance with HUD instructions.

If the AHA determines that the owner has breached the HAP contract, the AHA may exercise any of its rights or remedies under the HAP contract, including but not limited to contract termination.

Termination by Owner [24 CFR 983.206(d)]

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the AHA at least 90 calendar days prior to the planned termination. In this case, families living in the contract units must be offered tenant-based assistance.

Termination by Agreement of AHA and Owner [24 CFR 983.206(e)]

The AHA and owner may agree to terminate the HAP contract prior to the end of the term. The owner must notify the AHA and assisted tenants at least one year before the termination of the HAP contract by agreement of AHA and owner. Families living in the contract units must be offered tenant-based assistance and may elect to remain in the project as described in 24 CFR 983.206(b).

16-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.207(a)]

The AHA will amend the HAP contract to substitute a different unit, if the unit has the same number of bedrooms in the same project, is HQS compliant, and meets all PBV requirements for a previously covered contract unit. Before any such substitution can take place, the AHA will inspect the proposed unit and determine the reasonable rent for the unit. The proposed substituted unit may be vacant as described in 24 CFR 983.207(c) or occupied, may undergo repairs or renovation prior to amending the PBV HAP contract to substitute the unit as described in 24 CFR 983.207(d), and must have existed at the time as described in 24 CFR 983.207(e).

Addition of Contract Units [24 CFR 983. 207(b)]

At the AHA's discretion and subject to the overall size of the AHA's PBV program, a HAP contract may be amended to add additional PBV units in the same project. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

The AHA will consider adding contract units to the HAP contract when the AHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:

- The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and
- Voucher holders are having difficulty finding units that meet program requirements.

The AHA is not required to 1) allow units to be added to PBV contracts and 2) assist projects at the 100% level. The AHA will limit PBV assistance to make the project viable without over subsidizing the units unless the units are determined necessary to provide housing opportunities for low-income families that cannot be achieved through the HCV program.

The proposed added unit may be vacant as described in 24 CFR 983.207(c) or occupied, may undergo repairs or renovation prior to amending the PBV HAP contract to substitute

the unit as described in 24 CFR 983.207(d), and must have existed at the time as described in 24 CFR 983.207(e).

16-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(G) AND 983.302(E)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

Under MTW Activity 2023-02, all rent increases for Project-Based Voucher units will be increased once a year at the AHA's fiscal year (effective July 1) rather than the contract's anniversary date. Notices of rent change must be submitted to the AHA on or before May 1 each year. This does not change the rent reasonableness requirement for rent changes.

16-V.E. CONDITION OF CONTRACT UNITS [24 CFR 983.208]

Owner maintenance and operation

The owner must maintain and operate the contract units and premises in accordance with the HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the AHA and in the lease with each assisted family.

Any such additional requirements must be specified in the RFP, AHAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

The AHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The AHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the AHAP contract, and the HAP contract.

Enforcement of HQS

The AHA will not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with are contained in Section 8-II.G., Enforcing Owner Compliance.

In the case of an HQS deficiency that is caused by fire, natural disaster, or similar extraordinary circumstances, the AHA may permit the owner to undertake substantial improvement in accordance with 24 CFR 983.212. However, so long as the contract unit

with deficiencies is occupied, the AHA must withhold or abate housing assistance payments and remove units from or terminate the HAP contract.

In the case of a project that is undergoing development activity after HAP contract execution per 24 CFR 983.157, the remedies at 24 CFR 983.208(d) do not apply to units designated as unavailable for occupancy during the period of development activity in accordance with the rider. However, in the case of any contract unit with deficiencies that is occupied, the AHA must withhold or abate housing assistance payments and remove units from or terminate the HAP contract

16-V.F. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209]

When the owner executes the HAP contract, the owner certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the AHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

16-V.G. VACANCY PAYMENTS [24 CFR 983.352(B)]

Vacancy Payments will be paid to the owner in accordance with the terms of the HAP contract and as outlined in Sections 16-VI-F and 16-IX.B. of this Administrative Plan.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

16-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

16-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(A) AND (B)]

The AHA will select families for the PBV program from those who are participants in the AHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission will be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the AHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the AHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family also must meet HUD requirements related to current or past criminal activity.

The AHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the AHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family will be placed on the AHA's waiting list. Once the family's continued eligibility is determined (the AHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family will be given an absolute selection preference and the AHA must refer these families to the project owner for an appropriately-sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

Tenant Referrals to PBV Units

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 referred to the owner in the order in which they appear on the appropriate waiting list. 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 the credit and/or 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.

In the event that the PBV waiting lists are exhausted, the AHA may outreach to the following:

1) Applicants on other PBV waiting lists
2) HCV waiting list or tenant-based assisted households known to be seeking new units (i.e. newly-issued voucher holder, current participants who have given notice or otherwise indicated interest in seeking a new unit) to determine if there is interest in a HCV family moving to a PBV unit. However, voucher holders porting into the AHA jurisdiction may not be offered a PBV unit because HCVP provisions on portability under 24 CFR Part 982 do not apply to the project-based program under 24 CFR Part 983. PBV applicants shall always have priority over HCV tenants for available PBV units. Interested HCV tenants shall be considered for PBV units on a first ready, first served basis. Any additional HCV tenant families interested in PBV units will be informed that the unit(s) have been leased and no further action will be taken on their behalf.

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

16-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(C)]

The AHA will use its PBV Program waiting lists to select tenants for PBV units.

16-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(C)]

Applicants who will occupy units with PBV assistance can be selected from the AHA's PBV Waiting lists or may be referred by the owner.

AHA Referred Families

Waiting list referrals to the PBV owner will remain active for consideration for a PBV vacancy for a maximum period of 120 days from the date of selection from the waiting list. Referred tenants will be screened by the owner and readied for occupancy. First ready, is first referred back to the AHA for eligibility determination and leasing. 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 PBV waiting list. The AHA may return applicants to the waiting list before the 120-day period if the AHA is going to draw names for another owner off the same waiting list.

If the AHA referrals do not provide the owner with a suitable tenant for the unit and the 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 eligibility criteria.

Owner Maintained Wait List Referrals

Under MTW activity 2022-13, the AHA will allow owners to refer eligible families for Project-Based Voucher units to the AHA for PBV eligibility determination from an owner-managed wait list. Owner referrals would be optional for owners but if the owners did choose to refer eligible families, the AHA would require the owners to provide documentation and a narrative of 1) how any waiting list was built or families were selected for referral including documenting public announcements of available units and 2) show that the method met all applicable federal laws including non-discrimination and fair housing requirements. If the owner uses the Coordinated Entry System (CES) to provide names, the same documentation of compliance with non-discrimination and fair housing requirements must be submitted. The owner must also provide public notice of opening and closing the waiting list.

The methods for referral must be pre-approved by the AHA before any referrals can be made. The AHA can deny referrals from owners if the AHA determines that the outreach or waiting list management was insufficient or had a disparate impact on applicants. The AHA may refer families to the owner for placement on the owner's list. The AHA will make preliminary eligibility determinations that includes an appeal process with the PHA when the owner refuses to place a family on the waiting list.

The owner must meet the same criteria below in regards to Income Targeting, vetting applicants for Accessibility Features, and Preference awards as outlined in the AHA Administrative Plan. The only exception to this is for applicants referred by CES would not be ordered by AHA's preferences, but would be ordered by the CES system of ordering.

Income Targeting [24 CFR 983.251(c)(6)]

At least 75 percent of the families admitted to the AHA's tenant-based and project-based voucher programs during the AHA fiscal year from the waiting list will be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 CFR 983.251(c)(7)]

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the AHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

The AHA will use the same definitions and requirements for selection preferences that are used for the tenant-based voucher program. The AHA provides an absolute selection preference for eligible in-place families as described in Section 16-VI.B. The preferences for the PBV program may differ slightly from the HCV program. See Chapter 4-III.C.

When vacancies exist in PBV units of a specific size (i.e., number of bedrooms) or in excepted units, the AHA will select only qualified families of the correct family composition size according to the AHA's subsidy standards for those units in the correct order from the waiting list.

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).

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. Before the family receives assistance, however, 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 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.

If the AHA has projects with contracts executed prior to MTW designation and with units specifically made available for elderly families or families receiving supportive services, the AHA will give preference to such families when referring families to these units [24 CFR 983.261(b)]. For HAP contracts signed prior to April 18, 2017 this also includes units specifically made available for disabled families.

16-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

The AHA is prohibited from taking, and will not take, any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the AHA's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 CFR 983.251(e)(2)]

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

Determination of Eligibility and Offer of Unit

Once an offer for PBV assistance is made, families will have 14 days to decide if they would like to accept the unit offer and will have 30 days to move into the unit or upon completion of the family briefing, whichever is later.

Acceptance of Offer [24 CFR 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the AHA will give the family an oral briefing. The briefing will include information on how the program works, the responsibilities of the family and owner, and the family's right to move. In addition to the oral briefing, the AHA will provide a briefing packet that explains how the AHA determines the total tenant payment for a family, the family obligations under the program, family's right to move, PHA subsidy standards, including when the PHA will consider granting exceptions to the standards as allowed by 24 CFR 982.402(b)(8), and when exceptions are required as a reasonable accommodation for a person with disabilities under Section 504, the Fair Housing Act, or the Americans with Disabilities Act and information on Federal, State, and local equal opportunity laws, the contact information for the Section 504 coordinator, a copy of the housing discrimination complaint form, and information on how to request a reasonable accommodation or modification under Section 504, the Fair Housing Act, and the Americans with Disabilities Act.

In addition, the AHA and family must sign the statement of family responsibility.

Persons with Disabilities

The AHA will assure effective communication with all households, including those with persons with disabilities. In accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet alternate forms could be provided (see Chapter 2). In addition, the AHA will have a mechanism for referring a family that includes a member with mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The AHA will take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

16-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)] and provide a copy of this notice to the AHA.

Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected from the AHA's PBV waiting list.

The owner is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.

An owner must promptly notify in writing any rejected applicant of the grounds for any rejection. The owner must provide a copy of such rejection notice to the AHA.

The owner must comply with 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) and these protections apply to tenant screening.

The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the AHA's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

Contract units in a rehabilitated housing project undergoing development activity after HAP contract execution that are not available for occupancy in accordance with 24 CFR 983.157(e)(5) are not subject to this requirement.

The owner must promptly notify the AHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the AHA will make every reasonable effort to refer promptly a sufficient number of families for the owner to fill such vacancies. The AHA and the owner will make reasonable efforts to minimize the likelihood and length of any vacancy.

The owner must notify the AHA in writing (mail, fax, or e-mail) within seven calendar days of learning about any vacancy or expected vacancy.

The AHA will make every reasonable effort to refer families to the owner within 14 calendar days of receiving such notice from the owner.

After execution of a HAP contract, units must promptly be filled by the owner. Promptly here will be defined as 60 days. If the owner does not meet this deadline, the AHA may, at its discretion, 1) remove units from the contract or 2) grant the owner an extension to fill the units. In order to be granted an extension, an owner must show the steps taken to fill the units and the reason for the delay. If the owner has criteria for the unit that is more stringent than the AHA's eligibility requirements and this is resulting in delayed the leasing, the AHA may require the owner to change the criteria for the unit or remove it from the HAP contract.

Vacancy Payments will be paid to the owner in accordance with terms of the HAP contract and as outlined in this section and in Section 16-IX.B. of this Administrative Plan.

Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the AHA will give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

The AHA will provide the notice to the owner within 14 calendar days of the 120th day of the vacancy. Unless the owner can give adequate reason for the AHA not to reduce the

number of contract units within 14 calendar days of the date of the AHA's notice, the amendment to the HAP contract will be effective the 1st day of the month following the date of the AHA's notice.

16-VI.G. TENANT SCREENING [24 CFR 983.255]

AHA Responsibility

The AHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. The AHA will not conduct screening to determine a PBV applicant family's suitability for tenancy unless the applicant is to move into an AHA-owned or managed unit. The AHA may deny applicants based on such screening.

The AHA will inform owners of their responsibility to screen prospective tenants. Upon request, owners may request and the AHA will provide specific information about the family being considered for tenancy. The AHA 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 AHA will respond only to specific questions asked by owners and only when the AHA has documentation to confirm the accuracy of the information being provided. The AHA will provide applicant families a description of its policy on providing information to owners and give the same types of information to all owners. Refer to "Screening for Suitability as a Tenant" in Chapter 3 or "9-I.A. Tenant Screening" in Chapter 9 for the information that may be released.

Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families, the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills;
- Caring for a unit and premises;
- Respecting the rights of other residents to the peaceful enjoyment of their housing;
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and
- Compliance with other essential conditions of tenancy.
- The owner must notify AHA in writing within 14 calendar days when rejecting an applicant and give the grounds for such rejection.

PART VII: OCCUPANCY

16-VII.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the AHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

16-VII.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease.

The AHA will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the AHA (the names of family members and any AHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause," or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the AHA will provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract. This unit or another unit will not be added onto the contract at a later date. This unit is permanently removed. **Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the AHA a copy of all changes.

The owner must notify the AHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the AHA and in accordance with the terms of the lease relating to its amendment. The AHA will redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

The owner may also terminate the tenancy in accordance with the requirements related to lease terminations for development activity on units under a HAP contract as provided in 24 CFR 983.157(g)(6)(iii) and for substantial improvement to units under a HAP contract as provided in 24 CFR 983.212(a)(3)(iii).

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by AHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days.

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant. Starting July 1, 2024 the security deposit must not exceed AB 12 state requirements which prohibits landlords from demanding or receiving a security deposit for a residential rental in an amount that exceeds one month's rent. A landlord can require a security deposit in an amount up to two month's rent where: (1) the landlord is a natural person or a limited liability company in which all the members are natural persons; and (2) the landlord owns no more than two residential rental properties that collectively include no more than four dwelling units offered for rent in. When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The AHA has no liability or responsibility for payment of any amount owed by the family to the owner.

16-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260]

Under MTW Activity 2022-14, the AHA will allow families who are under-housed to remain in smaller Project-Based Voucher units than they qualify as long as the unit is not overcrowded if the under-housed family wishes to remain in the smaller unit. Any tenant who is underhoused when admitted into the program, after the 1-year initial lease period has expired, would have an opportunity to become "right sized" in a larger unit, if they so desired. The family must notify the AHA of the desire for a larger unit in writing. In addition, new admissions with a live-in aide would be eligible for a studio or 1-bedroom unit for occupancy or families with two members could consider a studio or 1-bedroom unit even if under the subsidy standard the family qualifies for a 2-bedroom unit.

If the family is under-housed and the unit is not overcrowded, within 14 calendar days of the determination the AHA will offer the family the opportunity to move and offer the family the option to stay in the unit. The family must reply in writing to either option. The family must be notified that the family can request to be right-sized at a later date if they select to be under-housed.

If the AHA determines that a family is occupying a unit that is too big, based on the AHA's subsidy standards and HQS requirements, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the AHA will notify the family and the owner within 14 calendar days of the AHA's determination of the family's need to move. The AHA will offer the family the following types of continued assistance, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

The AHA will make at most two offers of available assistance to the family. For example, if a PBV unit is not available and a vacancy is not anticipated in the near future, the AHA may offer just tenant-based assistance. If funding is not available for tenant-based assistance, the family will receive an offer as soon as funding becomes available and prior to issuance of vouchers from waiting lists. If the family does not accept the offer(s), the AHA will terminate the housing assistance payments for the wrong-sized or accessible unit with a 30-day notice.

If the AHA offers the family a tenant-based voucher, the AHA will terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by the AHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration date of the term of the family's voucher, the AHA must remove the unit from the HAP contract.

When the AHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 14 calendar days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within 30 days of the offer, the AHA will terminate the housing assistance payments at the expiration of this 30-day period. If the family does not accept the offer or accepts the offer and does not move

out of the PBV unit within 30 days the AHA must terminate the housing assistance payments for the wrong-sized or accessible unit and remove the unit from the HAP contract.

The AHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the AHA terminates the housing assistance for the unit, the AHA has, at its discretion, the option to remove the unit, substitute another like unit, or allow the current unit to remain on the contract with no assistance payments.

For PBV under-housed families living in a complex offering disability-specific supportive services that the family is eligible, the family may stay in the unit if the supportive services are needed and equivalent services are not offered at other PBV units of the right size.

Family Right to Move [24 CFR 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the AHA. If the family wishes to move with continued tenant-based assistance, the family must contact the AHA to request the rental assistance prior to providing notice to terminate the lease. When the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move, the family does not need to give advance written notice or contact the AHA before moving from the unit.

If the family terminates the lease in accordance with these requirements, the AHA will offer the family the opportunity for continued tenant-based assistance, in the form of a Housing Choice Voucher. If a voucher is not immediately available upon termination of the family's lease in the PBV unit, the AHA will give the family priority to receive the next available voucher. The Director of Housing Programs shall maintain a list of interested PBV participants who want to move with continued tenant-based HCV assistance. Placement and ranking on the list will be on a first come, first served basis.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the Housing Choice Voucher assistance unless the family needs to move for Reasonable Accommodation reasons, under the Violence Against Women's Act or because of good cause. Under MTW Activity 2023-03, the AHA will allow Project-Based Voucher families to receive a Housing Choice Voucher within the first year of tenancy for Reasonable Accommodation reasons or under the Violence Against Women's Act or upon demonstration of good cause. Families in units not meeting the family's needs due to an approved Reasonable Accommodation or due to a situation protected under the Violence Against Women's Act would be issued a tenant-based voucher if one is available with funding without being placed on a wait list to transfer to a unit that meets the family's needs. If funding is not available, these households would receive the first available vouchers.

Family Break-Up

In the event of a family break-up by divorce or legal separation, the family shall decide who remains in the assisted unit and report the change in household composition in writing to the AHA. No further subsidy shall be provided to the departing spouse. 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.

The documentation must include one of the following elements:

- A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, or
- A police or court record documenting the actual or threatened abuse, or
- A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

(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. of the Administrative Plan.)

The family must notify the AHA, in writing, within 14 calendar days of an action causing a family break-up and request a determination of the assignment of the assistance. The AHA may schedule a meeting, on a platform at the AHA's discretion, with the family members to discuss the assignment.

In the event that the AHA must determine which of the family members will continue to receive the PBV assistance or retain placement on the waiting list(s) for PBV assistance, the AHA determination will be made based on the following priorities:

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.

For units with contracts executed prior to MTW designation and additional requirements such as housing for the elderly or families receiving supportive services, the qualifying family member will be entitled to the continuation of the rental assistance. Any unit in

which the elderly or disabled household member is no longer in residence, the remaining household members will not be entitled to remain in the unit as designated under the HAP contract.

16-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262 AS AMENDED BY HERA AND HOTMA] FOR CONTRACTS EXECUTED PRIOR TO MTW DESIGNATION

Under regulation the AHA was not allowed to pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- Specifically made available for elderly families
- Specifically made available for disabled families and contract signed prior to April 17, 2017; or
- Specifically made available for families receiving supportive services as defined by the AHA. At least one member must be eligible to receive at least one qualifying supportive service.

These units were known as excepted units. The owner is still bound by the terms of the contract and must house families that are eligible for the unit.

A family (or remaining members of a family) residing in an excepted unit based on elderly or disabled family status no longer meets the criteria for a "qualifying family" due to a change in status that was beyond the control of the family, such as a death or long-term hospitalization, the unit is counted as excepted while the family remains in the unit. The family may need to move if the PBV unit is wrong-sized for the family.

If the family is moving to a non-excepted PBV unit, the family will have 60 days in which to complete the move. If the family will move with a Housing Choice Voucher, as is likely to be the case with a non-elderly or non-disabled surviving spouse, then the term of the voucher will apply. The AHA may grant extensions if the family can demonstrate good cause as outlined in Chapter 5, Section II-E of this Administrative Plan.

PART VIII: DETERMINING RENT TO OWNER

16-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a ten percent or greater decrease in the published FMR.

16-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the AHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

The amount determined by the AHA to limit the rent to owner can be different than the payment standards used for tenant-based vouchers under the HCV program. As such, while Assembly Bill 1482 does apply to the HCV program it does not apply to the PBV program.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units wherein the tax credit rent may exceed the applicable Payment Standard, the rent limits are determined differently than for other PBV units. In general, the rent to owner must not exceed the lowest of an amount determined by the AHA not to exceed the tax credit rent minus any utility allowance; the reasonable rent; or the rent requested by the owner.

The AHA will follow the rules and regulations promulgated by HUD and in effect at the time the HAP contract is executed.

Definitions

A **qualified census tract** is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same unit size (i.e., number of bedrooms) in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, the AHA will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, the AHA will use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. The AHA will not use an earlier FMR for initial rent determination or for redeterminations.

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

Redetermination of Rent [24 CFR 983.302]

The AHA will redetermine the rent to owner upon the owner's request, when there is a 10 percent or greater decrease in the published FMR, or at the time of the automatic adjustment by an operating cost adjustment factor (OCAF).

Rent Increase

If an owner wishes to request an increase in the rent to owner from the AHA, it must be requested 60 days prior to July 1 every year and include the requested amount of rent being proposed (see Section 16-V.D.). A rent increase through an adjustment by an OCAF does not need a rent request by the owner if allowed under the HAP contract since the AHA redetermines the rent automatically under that option. The AHA will only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

The AHA will not approve any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner will not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner will be decreased regardless of whether the owner requested a rent adjustment.

The rent to owner shall not be decreased below the initial rent if the HAP contract specifies this per 24 CFR 983.302 (c)(2).

Notice of Rent Change

The rent to owner is redetermined by written notice by the AHA to the owner specifying the amount of the redetermined rent. The AHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the annual anniversary of the HAP contract.

The AHA will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

AHA-owned Units [24 CFR 983.301(g)]

For AHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The AHA will use the rent to owner established by the independent entity.

16-VIII.C. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit will not exceed the reasonable rent for the unit as determined by the AHA.

When Rent Reasonable Determinations are Required

The AHA will redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- The AHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP contract is amended to add or substitute a different contract unit in the same project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance will be determined by comparison to rent for other comparable unassisted units. When making this determination, the AHA will consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that are receiving project-based assistance. The analysis will show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and will be retained by the AHA. The comparability analysis may be performed by AHA staff or by another qualified person or entity, including 3rd party software systems. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses will not have any direct or indirect interest in the property.

AHA-owned Units

For AHA-owned units, the amount of the reasonable rent will be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity will provide a copy of the determination of reasonable rent for AHA-owned units to the AHA and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the AHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

16-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 16-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 16-II.D).

Other Subsidy [24 CFR 983.301 and 983.304]

At its discretion, the AHA may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents will not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner will not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner will not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 CFR 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner also may be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

16-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, the AHA will make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments will be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment will be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the AHA agree on a later date.

Except for vacancy payments, the AHA will not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the AHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

16-IX.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. Vacancy payments also will be paid to the owner in accordance with the terms of the HAP contract and under the following conditions:

- Vacancy payments to the owner will be paid for up to two calendar months (based on a 30-day month) in an amount equal to the AHA's HAP for the family that last occupied that unit.
- The owner is not eligible to receive any vacancy payments beyond the second calendar month after the unit becomes vacant.
- The owner is not eligible to receive any vacancy payments if the unit does not meet Housing Quality Standards and/or if the owner is receiving payments in lieu of rent/HAP from any other source (e.g., insurance company). If the owner is receiving payments in lieu of rent/HAP from any other source that does not include any of the sixty-day period permitted for vacancy payments and all other conditions for vacancy payments have been met, the owner shall be entitled to vacancy payments for the portion of the sixty-day period not covered by the third party payments.
- The owner will receive vacancy payments only if the vacancy is not the owner's fault and the owner has taken every feasible action to minimize the likelihood and length of the vacancy.

Owners must submit a request for a vacancy loss payment at the earliest of:

A. 60 calendar days from the move-in; or
B. Between 60 calendar days and 120 calendar days from the move out date.

Owners can submit a vacancy loss payment request for their PBV units using the following form: https://form.alamedahsg.org/Forms/PBVVacancyLossRequest.

Also refer to Section 16-V.F. "Filling Vacancies."

16-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the AHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the AHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the AHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the

owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the AHA. The owner must immediately return any excess payment to the tenant.

If the family's income causes the HAP payment to decrease to zero, the AHA has, at its discretion, the option to remove the unit, substitute another like unit, or allow the current unit to remain on the contract with no assistance payments.

Tenant and AHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the AHA.

Likewise, the AHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The AHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The AHA will not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the AHA will pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

16-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges will not be included in the rent to owner, nor will the value of meals and supportive services be included in the calculation of the reasonable rent. Non-payment of such charges, however, is grounds for termination of the lease by the owner in an assisted living development.

Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

CHAPTER 18

HUD-VASH PROGRAM

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the HUD-VASH program in five parts:

Part I: Overview of the Program. General overview of the HUD-VASH program and goals.

Part II: Eligibility and Admissions. Policies related to the admission of eligible veterans for the HUD-VASH program including screening criteria for both the Veterans Affairs Department and the AHA. This also includes changes in required documentation for social security numbers, income targeting, and limitations on background screening.

Part III: Continued Occupancy. Policies related to the ongoing occupancy of participants under the HUD-VASH program including leasing concerns, inspections, and moves.

Part IV: Termination. Policies related to the termination of the assistance under the VASH program.

Part V: Resources. Additional documents pertaining to the HUD-VASH program.

PART I. OVERVIEW OF THE PROGRAM

18-I.A. OVERVIEW

The HUD-Veterans Affairs Supportive Housing (HUD-VASH) program combines voucher rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs (VA). VA provides these services for participating veterans at VA medical centers (VAMCs) and community-based outreach clinics (CBOCs). The goal is to provide permanent housing for eligible homeless veterans.

The HUD-VASH program works through a Housing-First model. This model provides permanent housing as quickly as possible to those experiencing homelessness and then provides supportive services as needed. Due to this model, there are minimal requirements for admittance to the program. After housing is secured, participants are connected with supportive services, such as substance abuse counseling, to maintain recovery and housing in the community.

~~Moving to Work (MTW) activities do not include HUD-VASH applicants or participants with the exception of activity 2022-01 Payments Standards – Fair Market Rents.~~

Please refer to the table in Chapter 1 for a list of which MTW flexibilities have been extended to VASH.

18-I.B. RESPONSIBILITIES UNDER PROGRAM

The VAMC or CBOC's responsibilities include:

1. Screening of homeless veterans to determine whether they meet the HUD–VASH program participation criteria established by the VA national office;
2. Referring homeless veterans to the AHA;
3. Providing appropriate treatment and supportive services to potential HUD–VASH program participants, if needed, prior to AHA issuance of rental vouchers;
4. Identifying the social service and medical needs of HUD–VASH participants and providing, or ensuring the provision of, regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
5. Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

The AHA's responsibilities include:

1. Determining limited eligibility criteria of families that have been referred by the partner VA
2. Maintaining documentation of referrals from the partner VA
3. Administer the vouchers in accordance with the AHA's Administrative Plan, AHA policies and procedures, and HUD regulation.

To support the HUD-VASH Housing-First model, certain voucher requirements are waived. In most ways, the HUD-VASH program follows regular voucher requirements (24 CFR Section 982 and 983). However, the HUD Secretary, in consultation with the VA Secretary, has the authority to waive or alter any provision for the effective delivery and administration of voucher assistance (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment).

HUD-VASH requirements differ from voucher requirements in eligibility, leasing, portability, and other categories. See the "HUD-VASH Reference Guide" for details.

PART II. ELIGIBILITY AND ADMISSION

18-II.A. ELIGIBILITY

Eligible families are homeless veterans and their families that are referred by the partnering VAMC. VA staff screen families according to the VA's screening criteria and determine clinical eligibility for the program. The VA criteria follow, but these are determined by VA staff and not the AHA:

Applicants must be VA health care eligible, meaning they have served in the active military and were separated under any condition except dishonorable. Applicants must also be homeless, as defined by The McKinney Homeless Assistance Act. Additionally, participants are expected to participate in case management and utilize the supportive services, treatment recommendations and assistance needed to successfully maintain recovery and housing in the community.

VA HUD–VASH case managers refer HUD–VASH-eligible families to the Housing Authority for housing assistance. The AHA **must** accept referrals from their VA partner.

Written documentation of these referrals **must** be maintained in the tenant file by the AHA. By agreeing to administer the HUD–VASH program, the AHA is relinquishing its authority to determine the eligibility of families in accordance with regular program rules and policies. The AHA will **not** have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Admissions, cross-listing of the waiting list, and opening and closing the waiting list do not apply to the HUD–VASH program.

When a VA case manager refers an applicant to the AHA, AHA staff determine if the applicant is eligible based **only** on the following:

1. Income limits and
2. If any member of the household maintains Lifetime Sexual Offender Registry status

The applicant is not eligible for HUD-VASH if they exceed income limits and/or if they maintain Lifetime Sexual Offender Registry status. The AHA uses the low income level for the VASH program compared to the very-low income level for all other vouchers.

It is prohibited to deny an applicant for any grounds permitted under 24 CFR 982.552 (broad denial for violations of program requirements) and 982.553 (specific denial for criminals and alcohol abusers), other than Lifetime Sexual Offender Registry Status. This applies to all family members. For instance, AHA cannot deny assistance to an otherwise eligible HUD-VASH family that owes money to a Housing Authority in connection with past program participation.

However, when **new** family members are added **after** the veteran is a participant, 24 CFR 982.551(h)(2) and regular AHA screening criteria apply. Other than the birth, adoption, or court-awarded custody of a child, the AHA must approve additional family members and may apply its regular screening criteria in doing so.

18-II.B. ACCEPTABLE DOCUMENTATION

To verify Social Security numbers for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual along with other identifying information of the individual, is acceptable. The AHA must also accept self-certification of SSN and at least one third-party document, such as a bank statement, utility or cell phone bill, or benefit letter that contains the name of the individual in the absence of other documentation.

In the case of the homeless veteran, the AHA must accept the Certificate of Release or Discharge from Active Duty (DD–214) or the VA-verified Application for Health Benefits (10–10EZ) as verification of SSN and cannot require the veteran to provide a SSN card.

18-II.C. INCOME TARGETING

The income targeting requirement of 75% of families being extremely low-income does not apply to HUD-VASH. The AHA uses the low-income level (80% Area Median Income) for the VASH program compared to the very-low income level for all other vouchers.

18-II.D. INCOME AND ASSET ELIGIBILITY

The AHA must determine income eligibility for HUD-VASH families in accordance with 24 CFR 982.201. VA service-connected disability benefits are excluded for purposes of determining income eligibility but included for purposes of calculating the total tenant payment (TTP), housing assistance payment, and family share.

The AHA cannot deny admission to a family with zero income. When the veteran family reports that they have zero income, the AHA must accept a self-certification of zero income. The AHA must accept a self-certification by the family that the family's total assets are equal to or less than $50,000 at new admission.

PART III. CONTINUED OCCUPANCY

18-III. A. LEASING

For the AHA's project-based VASH vouchers, the family must live in the unit to which the assistance is tied for at least 12 months before transferring with assistance. For the AHA's tenant-based VASH vouchers, participants will have an initial search term of 180 days but may receive extensions as allowed under the Housing Choice Voucher program. This applies to the search term at both initial issuance and moves with assistance.

HUD-VASH assistance is allowed on the grounds of a VA medical facility for both HCV tenant-based vouchers for HUD-VASH families and all PBV units made exclusively available for HUD-VASH families.

18-III. B. UNIT INSPECTIONS

AHAs may pre-inspect units that veterans may be interested in leasing. If a family selects a unit that passed a HQS inspection (without intervening occupancy) within 9045 days of the date of the Request for Tenancy Approval, the unit may be approved.

18-III. C. PORTABILITY AND TRANSFERS

A family that moves under the portability procedures must not be subject to rescreening by the receiving PHA.

Families receiving HUD–VASH voucher assistance must receive case management services provided by a partnering VAMC or CBOC. Therefore, special mobility and portability procedures must be established. A HUD-VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. The VA must **always** be consulted prior to a move to ensure that case management will continue to be provided.

In accordance with 24 CFR § 983.261(a) and the lease, the family may terminate the assisted lease any time after the first year of occupancy. In 24 CFR § 983.261(b) it is further stated that if the family has elected to terminate the lease in this manner, the PHA must offer the family the opportunity for continued tenant-based rental assistance in the form of either assistance under the voucher program or other comparable tenant-based rental assistance as defined in 24 CFR § 983.3. However, in accordance with 24 CFR § 983.261(c), before providing notice to terminate the lease (with a copy to the PHA), the

CHAPTER 19

EMERGENCY HOUSING VOUCHERS/ STABILITY VOUCHERS

Effective July 21, 2021

INTRODUCTION

This chapter describes the HUD regulations and PHA policies related to the Emergency Housing Vouchers (EHVs) as outlined in PIH Notice 2021-15.

Part I: Overview of the Program. General overview of the EHV program and goals. Overview of Stability Vouchers and differences from EHV.

Part II: Eligibility and Admissions. Policies related to eligible families and admission into the EHV program.

Part III: Continued Occupancy. HCV Policies will govern the EHV program.

Part IV: Termination and Reissuance. Policies related to termination and reissuance of EHV program vouchers.

PART I. OVERVIEW OF THE PROGRAMS

19-I.A. OVERVIEW OF EMERGENCY HOUSING VOUCHERS (EHV)

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (P.L. 117-2, hereafter referred to in this notice as "the ARP") into law, which provides over $1.9 trillion in relief to address the continued impact of the -COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses.

Section 3202 of the ARP appropriates $5 billion for new incremental EHVs, the renewal of those EHVs, and fees for the cost of administering the EHVs and other eligible expenses defined by notice to prevent, prepare, and respond to coronavirus to facilitate the leasing of the emergency vouchers, such as security deposit assistance and other costs related to retention and support of participating owners.

Under PIH Notice 2021-15, in May 2021, HUD allocated 70,000 EHVs to public housing authorities and issued guidance on the administration of these EHVs. The AHA was allocated 57 EHVs. The AHA cannot reissue any turnover EHV after September 30, 2023.

All other sections of this Plan apply to EHV unless explicitly stated otherwise in this chapter or HUD regulation or guidance. COVID waivers applied to the regular HCV program that are eligible to the EHV program will be applied to EHV. These updates are posted on the AHA's website if in effect.

Please refer to the table in Chapter 1 for a list of which MTW flexibilities have been extended to EHV.

~~Moving to Work (MTW) activities do not include EHV applicants or participants.~~

19-I.B. OVERVIEW OF STABILITY VOUCHERS (SV)

The Consolidated Appropriations Act, 2021 (Public Law 116-260) authorized a new allocation of Stability Vouchers. In June 2023, the AHA received an allocation of ten (10) Stability Vouchers as outlined in PIH Notice 2022-24. Stability Vouchers are similar to EHV, but have some slight differences such as Stability Vouchers do not have a deadline after which turnover vouchers may not be issued.

As with EHV, all other sections of this Plan apply to Stability Vouchers unless explicitly stated otherwise in this chapter or HUD regulation or guidance.

Please refer to the table in Chapter 1 for a list of which MTW flexibilities have been extended to SV.

~~Moving to Work (MTW) activities do not include Stability Voucher applicants or participants.~~

19-I.C. FUNDING AND USES OF FUNDING

Funding and its approved uses are spelled out in PIH Notice 2021-15 for EHV. The funding for Stability Vouchers differs from EHV in several ways and was outlined in the award letter from HUD.

ADMINISTRATIVE FEES

Administrative fees received for EHV can only be used for EHV and must be recorded separately for the Administrative Fees of other AHA programs.

- **On-going monthly administrative fee**: received to administer the program calculated the same as under the Housing Choice Voucher program
- **Preliminary Fee**: single, one-time payment
- **Placement Fee/Expedited Issuance Reporting Fee**: one-time fee received for initial lease-up of each EHV. Amount depends on time to lease.
- **Service Fee**: one-time fee for each EHV allocated.

At the recommendation of the Director of Housing Programs and with the Approval of the Executive Director or designee, one-time administrative fees may be used for other eligible expenses (see next section).

The SV program receives one-time Special Fees for each awarded SV and not the above categories for EHV.

QUALIFIED ACTIVITIES FOR ONE-TIME ADMINISTRATIVE FEES FOR EHV

Each EHV household shall be eligible for up to $3500 of services; choice and provision of the services will be at the AHA's discretion.

1) Housing Search Assistance if unavailable through the CoC
   a) Identify and visit possible units including ADA accessible
   b) Transportation and directions
   c) Rental application assistance
   d) Expedite leasing process including payment of leasing related fees
   e) Housing Mobility Services

2) Security Deposit if unavailable through the CoC
   a) Security Deposit Assistance
      i) Cannot exceed the less of
         (1) Two month's rent
         (2) Maximum security deposit allowed under law
         (3) Actual amount required by owner for other unassisted units
         (4) $3,000
      ii) The AHA will pay the security deposit directly to the owner
      iii) The owner must refund the security deposit to the AHA at the end of the tenancy less any amounts retained by the owner in accordance with the lease and California State law.
3) Owner-related Uses
   a) Owner recruitment and outreach
   b) Owner incentive and/or retention payments
      i) The AHA will make one-time incentive payments of $2,000 at the lease-up of an EHV family.
      ii) Funds may be used for owners with accessible units or owners that will make the living conditions accessible (interior/exterior structural modifications) for a person with disabilities.
4) Other Eligible Uses
   a) Tenant-readiness services
      i) Fees may be paid for customized plans to address or mitigate barriers such as negative credit, lack of credit, negative rental or utility history or to connect the family to other resources.
      ii) The AHA can provide access to case management, wrap-around services, life skills training, financial stability training, mental health care, and/or a stability coordinator.
      iii) The AHA can also provide services to remedy a lease violation and/or prevent an eviction.
      iv) The AHA can also use service fees to help for families to obtain vital documents needed to establish eligibility for the program and/or required by landlords as part of their rental application.
   b) Moving Expenses
      i) The AHA will pay some or all of the family's reasonable moving expenses when the family initially leases a unit with the program.
         (1) The family must submit documentation of moving expenses for payment.
      ii) The AHA will pay for application fees up to $500 per family.
      iii) The AHA will assist with the Security Deposit up to the lesser of the following
         (1) Actual Security Deposit required by owner
         (2) Maximum security deposit allowed under state or local law
         (3)
      iv) The AHA can also pay for storage expenses and lock change fees.
   c) Essential Household items
      i) The AHA may use the services fee funding to assist the family with some or all of the costs of acquiring essential household items. The AHA can provide a prepaid gift card directly to families after the AHA has verified that the family

purchased essential household items and the AHA obtains and maintains appropriate supporting documentation.

ii) Definition of Essential Households Items: furniture, toiletries, tableware, bedding, cleaning supplies, bathroom supplies, kitchen supplies, basic tools, and basic household items such as light bulbs or smoke detectors.

QUALIFIED ACTIVITIES FOR ONE-TIME SPECIAL FEES FOR SV

Each SV household shall be eligible for services from SV funding not to exceed EHV limit; choice and provision of the services will be at the AHA's discretion. Once SV Special Fees funding are expended, the AHA may fund these activities through non-Federal funds at its discretion.

1) Owner incentive
   a) Owner incentive and/or retention payments
      i) The AHA will make one-time incentive payments of $2,000 at the lease-up of an SV family.
2) Security Deposit if unavailable through the CoC
   a) Security Deposit Assistance
      i) Cannot exceed the less of
         (1) Two month's rent
         (2) Maximum security deposit allowed under law
         (3) Actual amount required by owner for other unassisted units
      ii) The AHA will pay the security deposit directly to the owner
      iii) The owner must refund the security deposit to the AHA at the end of the tenancy less any amounts retained by the owner in accordance with the lease and California State law.
3) Application Fees
   a) The AHA will pay for application fees up to $500 per family.

19-I.D. RESPONSIBILITIES UNDER PROGRAM

Agencies with MOU's with the AHA will refer families according to the terms in the MOU for both the EHV and SV vouchers. The AHA will issue and administer the EHV and SV.

PART II. ELIGIBILITY AND ADMISSION

19-II.A. ELIGIBILITY

To be eligible for EHV a family must be:

- Homeless;
- At risk of homelessness;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

The definitions for EHV eligibility are found in PIH Notice 2021-15 section 8.a.

To be eligible for SV a family must be:

- Homeless;
- At risk of homelessness;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or
- Veterans and families that include a veteran family that meet one of the preceding criteria.

The definitions for SV eligibility are found in PIH Notice 2022-24 section 8.

These definitions will be used rather than definitions provided in other parts of this Administrative Plan.

19-II.B. DENIAL OF ASSISTANCE

Section 3-III.B Mandatory Denial of Assistance [24 CFR 982.553(a)] does not apply to EHV or SV, instead the following apply:

HUD requires the AHA to deny assistance to EHV or SV in the following cases:

• 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

The AHA may deny assistance if any member of the family has engaged in abusive or threatening behavior towards 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.

19-II.C. REFERRAL TO PROGRAMS

The AHA will receive direct referrals from Alameda County's Coordinated Entry System (CES) and other non-profit partners only if the CES does not meet MOU deadlines; therefore, since HUD waived sections of 24 CFR 982.204, the sections (mostly Chapter 4) of this Plan relating to waiting list selection do not apply.

A Memorandum of Understanding (MOU) must be executed before the AHA will receive referrals from partner agencies. These partner agencies will provide to the AHA a verification that the family meets the criteria of one of the above categories under Section 19-II.A.

19-II.D. PREFERENCES

The AHA will not apply the HCV preferences to the EHV or SV applicants. The referring agencies will be responsible for determining order of referrals. Waiting lists for each type of voucher will be ordered by date and time referred. Admission to the EHV/SV programs will be on a first ready, first served basis.

19-II.E. VERIFICATIONS AND CORRECTION OF OMISSIONS AND ERRORS

Since HUD has waived program requirements under 24 CFR 982.201 for verifications of applicants under the EHV and SV program, the AHA will accept documents dated over 60-days as valid verifications for EHV and SV applicants.

EIV requirements remain in affect for applicants such as searching the Existing Tenant Search and running a report within 90 days of admission to verify reported income.

If it is discovered that the EHV or SV family did not report income at admission into the program, the AHA will terminate the family's assistance. If it is discovered that the EHV or SV family did not correctly report income and the family would still have been eligible for the program, the AHA will offer the option to repay all overpaid assistance prior to terminating assistance.

Acceptance of verifications older than 60-days and a certification will not require additional verification until the family experiences a change in income or family composition or until the next regular reexamination.

19-II.F. HOUSING SEARCH

To obtain assistance with an initial (first lease-up) housing search, EHV and SV referrals will be given contact information for this service once the voucher has been issued.

The AHA will use payment standards set at 120% of the area fair market rents (FMR). Please refer to the AHA's website (https://www.alamedahsg.org/landlords/questions-about-subsidy-payments/) for the current payment standards. ~~As of November 2, 2024, this sets the payment standards at:~~

~~Unit Size~~	~~FMR~~	~~120% of FMR (EHV Payment Standard)~~
~~Studio~~	~~$1,937~~	~~$2,324~~
~~1-bedroom~~	~~$2,201~~	~~$2,641~~
~~2-bedroom~~	~~$2,682~~	~~$3,218~~
~~3-bedroom~~	~~$3,432~~	~~$4,118~~
~~4-bedroom~~	~~$34,077~~	~~$4,892~~
~~5-bedroom~~	~~$4,688~~	~~$5,625~~

The selected unit must still comply with all Rent Reasonableness tests performed by AHA prior to move in.

The AHA would prefer an initial lease for 12 months to assist with housing stability but will accept a lesser term.

19-II.G. VOUCHER ISSUANCE

The AHA will issue an EHV or SV family a voucher for an initial term of 180 days. If an extension for a voucher term of more than 180 days is needed, the regular HCV extension requirements apply. Please see Chapter 5 Section 5-II.E *Voucher Term, Extensions, and Suspensions* subpart *Extensions of Voucher Term* for additional information. The AHA will follow its normal suspension procedures found in Section 5.II.E of Chapter 5 of its Administrative Plan.

19-II.H. PORTABILITY

Portability, moving outside the City of Alameda, will not be restricted on nonresident applicants, so all applicants may move prior to initial lease-up to any jurisdiction operating a housing choice voucher program.

The AHA's briefing for EHV and SV families will include, along with the normal portability information, information on how portability will impact the EHV or SV services and assistance that may be available to the family.

PART III. CONTINUED OCCUPANCY

19-III.A. APPLICABILITY OF ALL REQUIREMENTS FOR CONTINUE OCCUPANCY

All HCV rules will apply to EHV and SV households, including adding family members.

Administrative Plan Revisions

April 2025

Sepideh Kiumarsi, Senior Management Analyst

Letter from HUD re MTW

February 19, 2025:

HUD approved the following MTW flexibilities to be extended to the Emergency Housing Voucher (EHV), Stability Voucher (SV) and Veterans Affairs Supportive Housing (HUD-VASH) programs:

Alternative Income Inclusions/ Exclusions (HCV)

Self-Certification of Assets

Alternative Inspection Schedule

Pre-Qualifying Unit Inspections

Letter from HUD re MTW (continued)

Revising MTW policies for the following MTW flexibilities so that they can also be extended to these special programs:

Alternative Reexamination Schedule for Households

(EHV, SV, VASH)

Project-Based Voucher Contract Rent Increases

(VASH only)

Project-Based Voucher Right Sizing

(VASH only)

Other Revisions

1. Updating the PBV vacancy loss payments policy to specify a timeline in which owners must request a vacancy loss payment;
2. Reducing the time to process an interim from 45 days to 30 days;
3. Removing the EHV payment standard table which is date-sensitive and instead referring individuals to the website for the most current version;
4. Including language regarding compliance with the Fostering Stable Housing Opportunities HUD Notice (2022) for the Family Unification Program; and
5. Updating the table of contents to reflect the changes above.

Thank you.
Questions?