

**FRANKLIN VANCE WARREN
OPPORTUNITES
ADMINISTRATIVE PLAN**

FRANKLIN VANCE WARREN OPPORTUNITIES
HOUSING CHOICE VOUCHER
ADMINISTRATIVE PLAN

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TABLE OF CONTENTS

INTRODUCTION	18
CHAPTER 1	20
OVERVIEW OF THE PROGRAM AND PLAN	20
PART 1: THE PHA	20
1-I.A. OVERVIEW	20
1-I.B. ORGANIZATION AND STRUCTURE OF THE FVWOP	21
1-I.C. MISSION STATEMENT	21
1-I.D. FVWOP PROGRAMS.....	21
1-I.E. THE FVWOP'S COMMITMENT TO ETHICS AND SERVICE	22
PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM	23
1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM	23
1-II.B. HCV PROGRAM BASICS	24
1-II.C. THE HCV PARTNERSHIPS	24
1-II.D. APPLICABLE REGULATIONS	27
PART III: The HCV Administrative Plan	28
1-III.A. OVERVIEW AND PURPOSE OF THE PLAN	28
1-III.B. CONTENTS OF THE PLAN [24 CFR 982.54]	28
1-III.C. ORGANIZATION OF THE PLAN	30
1-III.D. UPDATING AND REVISING THE PLAN	30
CHAPTER 2	31
FAIR HOUSING AND EQUAL OPPORTUNITY	31
INTRODUCTION	31
PART I: NONDISCRIMINATION	31
2-I.A. OVERVIEW	31
2-I.B. NONDISCRIMINATION	32
PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES	34
2-II.A. OVERVIEW	34
2-II.B. DEFINITION OF REASONABLE ACCOMMODATION	35
2-II.C. REQUEST FOR AN ACCOMMODATION	36
2-II.D. VERIFICATION OF DISABILITY	36

2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION	38
2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION	39
IMPAIRMENTS	39
2-II.G. PHYSICAL ACCESSIBILITY	40
2-II.H. DENIAL OR TERMINATION OF ASSISTANCE	41
PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED.....	41
ENGLISH PROFICIENCY (LEP)	41
2-III.A. OVERVIEW	41
2-III.B. ORAL INTERPRETATION.....	42
2-III.C. WRITTEN TRANSLATION.....	43
2-III.D. IMPLEMENTATION PLAN	44
CHAPTER 3	47
ESTABLISHING PREFERENCES (PRIORITIES) AND MAINTAINING THE WAITING	
LIST	47
INTRODUCTION	47
PART I: THE APPLICATION PROCESS	48
3-I.A. OVERVIEW	48
3-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16]	48
3-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS	49
PART II: MANAGING THE WAITING LIST	49
3-II.A. OVERVIEW	49
3-II.B. PLACEMENT ON THE WAITING LIST	49
3-II.C. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205].....	50
3-II.D. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]	51
3-II.E. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4].....	52
3-II.F. REPORTING CHANGES IN FAMILY CIRCUMSTANCES	53
3-II.G. UPDATING THE WAITING LIST [24 CFR 982.204]	53
PART III: SELECTION FOR HCV ASSISTANCE	54
OVERVIEW	54
3. III.A SELECTION AND HCV FUNDING SOURCES.....	54
3.III.B SELECTION METHOD	56
WAITING LIST PREFERENCES [24 CFR 982.207]	56
LOCAL PREFERENCES (PRIORITIES) [24 CFR 982.207; HCV p. 4-16]	57

INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION	59
[24 CFR 982.207]	59
Income Targeting Requirement [24 CFR 982.201(b)(2)].....	60
Local Preferences (Priorities)	61
FINAL VERIFICATION OF PREFERENCES (PRIORITIES) [24 CFR 982.207].....	61
PREFERENCE (PRIORITIES) DENIAL [24 CFR 982.207]	61
Removing Names from Waiting List.....	62
CHAPTER 4	63
SUBSIDY STANDARDS	63
[24 CFR 982.54(d)(9)].....	63
4-I.A. OVERVIEW	63
4. I.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402].....	63
4.I.C. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.403(a) & (b)].....	65
4.1.D. UNIT SIZE SELECTED [24 CFR 982.402(c)].....	67
CHAPTER 5	68
FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION	68
[24 CFR Part 5, Subparts E and F; 982.153, 982.551]	68
5. I.A. OVERVIEW.....	68
5. I.B. INCOME AND ALLOWANCES [24 CFR 5.609].....	68
PART I: ANNUAL INCOME.....	69
5-I.A. OVERVIEW.....	69
5-I.B. HOUSEHOLD COMPOSITION AND INCOME	70
5. I.C. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT [24 CFR 982.54(d)(10), 982.312, 982.551].....	70
5.II.A. INTRODUCTION.....	76
5. I.B. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS.....	77
TTP Formula [24 CFR 5.628]	77
5. I.C. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630].....	78
OVERVIEW	78
5.1.D APPLYING PAYMENT STANDARDS [24 CFR 982.505]	82
5.1.E. APPLYING UTILITY ALLOWANCES [24 CFR 982.517].....	84
5.1.F. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]	84
5. I.D. ANTICIPATING ANNUAL INCOME.....	85
5. I.E. EARNED INCOME	86

Types of Earned Income Included in Annual Income <i>Wages and Related Compensation</i>	86
Some Types of Military Pay	87
Children’s Earnings	87
Certain Earned Income of Full-Time Students	88
Income of a Live-in Aide.....	88
Income Earned under Certain Federal Programs	88
Resident Service Stipend	88
State and Local Employment Training Programs.....	88
HUD-Funded Training Programs	89
Earned Income Tax Credit.....	89
Earned Income Disallowance	90
5. I.F. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24	
CFR 5.617]	90
Eligibility	90
Calculation of the Disallowance	90
Second 12-Month Exclusion and Phase-In.....	91
Lifetime Limitation.....	91
5. I.G. MINIMUM INCOME.....	91
5.I.H. BUSINESS INCOME [24 CFR 5.609(b)(2)].....	92
Business Expenses	92
Business Expansion	92
Capital Indebtedness	92
Negative Business Income.....	93
Withdrawal of Cash or Assets from a Business.....	93
Co-owned Businesses	93
5.I.H. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609].....	93
5. I.I. ALIMONY AND CHILD SUPPORT [24 CFR 5.609].....	94
5.I.J. LUMP-SUM RECEIPTS [24 CFR 5.609]	94
Prospective Calculation Methodology.....	95
Retroactive Calculation Methodology	95
Attorney Fees.....	95
5. I.K. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS [24 CFR 5.603(d)]	95

5.1. L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE	[24
CFR 5.603(d)(3)]	96
5.I.N. MEDICAL EXPENSES [24 CFR 5.611(a)(3)(i)]	96
5.I.O. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]	98
Applicability	98
Prorated Assistance Calculation	98
5.II.A. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24	
CFR 982.153, 982.517]	98
CHAPTER 6	100
VERIFICATION PROCEDURES	100
[24 CFR PART 5, SUBPARTS B, D, E AND F; 982.108]	100
6. I.A. OVERVIEW	100
PART I: 6. I.B. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]	
	100
FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551,	
24 CFR 5.230]	100
Requirements for Acceptable Documents	101
File Documentation	101
6. I.C. UP-FRONT INCOME VERIFICATION (UIV)	102
Use of HUD's Enterprise Income Verification (EIV) System	103
Tenant Income Data (TID) Reports	104
Income Discrepancy Reports (IDRs)	104
EIV Identity Verification	105
6. I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION	106
Reasonable Effort and Timing	107
When Third-Party Information is Late	108
When Third-Party Verification is Not Required [Notice PIH 2010-19]	108
Certain Income, Asset and Expense Sources	109
6. I.E. REVIEW OF DOCUMENTS	109
Using Review of Documents as Verification	109
Self-Certification/Self-Declaration	110
PART II: VERIFYING FAMILY INFORMATION	110
6-II.A. VERIFICATION OF LEGAL IDENTITY	110

6. II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV GB, p. 5-12]	111
SSN Disclosure	112
SSN Documentation:	113
Rejection of Documentation:	113
Verification of The SSN:	114
Individual's Without an Assigned SSN:	115
6. II.C. ADDITION OF A NEW HOUSEHOLD MEMBER	115
6-II.D. DOCUMENTATION OF AGE	117
6. II.E. FAMILY RELATIONSHIPS	117
Marriage	117
Separation or Divorce	117
Absence of Adult Member	118
Foster Children and Foster Adults	118
6-II.F. VERIFICATION OF STUDENT STATUS	118
General Requirements	118
Restrictions on Assistance to Students Enrolled in Institutions of Higher Education	119
Independent Student	119
6-II.G. DOCUMENTATION OF DISABILITY	120
Family Members Receiving SSA Disability Benefits	120
Family Members Not Receiving SSA Disability Benefits	121
6-II.H. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]	121
Overview	121
U.S. Citizens and Nationals	121
Eligible Immigrants	122
<i>FVWOP Verification</i> [HCV GB, pp. 5-3 and 5-7]	122
6-II.I. VERIFICATION OF PREFERENCE STATUS	122
PART III: VERIFYING INCOME AND ASSETS	123
6-III.A. EARNED INCOME	123
Tips	123
6-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME	123
6-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS	124
Social Security/SSI Benefits	124

6-III.D. ALIMONY OR CHILD SUPPORT	126
6-III.E. ASSETS AND INCOME FROM ASSETS.....	126
Assets Disposed of for Less than Fair Market Value	126
6-III.F. NET INCOME FROM RENTAL PROPERTY	127
6-III.G. RETIREMENT ACCOUNTS	127
6-III.H. INCOME FROM EXCLUDED SOURCES	128
6-III.I. ZERO ANNUAL INCOME STATUS	128
6-III.J. STUDENT FINANCIAL ASSISTANCE	129
6-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS	132
PART IV: VERIFYING MANDATORY DEDUCTIONS	133
6-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS	133
Dependent Deduction.....	133
Elderly/Disabled Family Deduction	133
6-IV.B. MEDICAL EXPENSE DEDUCTION.....	133
Amount of Expense.....	133
Eligible Household.....	134
Qualified Expenses	134
Unreimbursed Expenses.....	134
Expenses Incurred in Past Years.....	134
6-IV.C. DISABILITY ASSISTANCE EXPENSES [24 CFR 5.603(B) AND 24 CFR 5.611(A)(3)(II)]	135
Amount of Expense.....	135
Auxiliary Apparatus.....	136
Family Member is a Person with Disabilities	138
Family Member(s) Permitted to Work.....	138
Unreimbursed Expenses.....	138
6-IV.D. CHILD CARE EXPENSES	139
Eligible Child.....	139
Unreimbursed Expense	139
Pursuing an Eligible Activity.....	139
Allowable Type of Child Care.....	141

Reasonableness of Expenses.....	141
CHAPTER 7	144
VOUCHER ISSUANCE AND BRIEFINGS	144
[24 CFR 982.301, 982.302]	144
PART I: BRIEFINGS AND FAMILY OBLIGATIONS.....	144
7-I.A. OVERVIEW	144
7-I.B. BRIEFING [24 CFR 982.301]	144
Notification and Attendance	145
Oral Briefing [24 CFR 982.301(a)]	145
Briefing Packet [24 CFR 982.301(b)].....	146
Additional Items to be Included in the Briefing Packet.....	147
7-I.C. FAMILY OBLIGATIONS.....	148
Time Frames for Reporting Changes Required By Family Obligations.....	148
Family Obligations [24 CFR 982.551]	149
PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE	152
7-II.A. OVERVIEW	152
7-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]	152
7-II.D. VOUCHER ISSUANCE [24 CFR 982.302]	154
Voucher Rescission.....	155
7-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS Voucher Term [24 CFR 982.303].....	155
Extensions of Voucher Term [24 CFR 982.303(b)]	155
Suspensions of Voucher Term [24 CFR 982.303(c)]	157
Expiration of Voucher Term.....	157
CHAPTER 8	158
GENERAL LEASING POLICIES	158
[24 CFR 982.302]	158
8-I.A. TENANT SCREENING	158
8-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]	159
8-I.C. OWNER PARTICIPATION	160
8-I.D. ELIGIBLE UNITS.....	161
Ineligible Units [24 CFR 982.352(a)].....	161
Special Housing Types [24 CFR 982 Subpart M]	161
Duplicative Assistance [24 CFR 982.352(c)]	161

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401].....	162
Unit Size.....	162
Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]	162
8-I.E. LEASE AND TENANCY ADDENDUM	162
Lease Form and Tenancy Addendum [24 CFR 982.308]	163
Lease Information [24 CFR 982.308(d)]	163
Term of Assisted Tenancy	163
Security Deposit [24 CFR 982.313 (a) and (b)].....	164
Separate Non-Lease Agreements between Owner and Tenant.....	164
FVWOP Review of Lease.....	165
8-I.F. TENANCY APPROVAL [24 CFR 982.305].....	166
8-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305].....	167
8-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308].....	168
CHAPTER 9	169
HOUSING QUALITY STANDARDS AND INSPECTIONS	169
[24 CFR 982.401]	169
INTRODUCTION.....	169
9. I.A. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]	175
9. I.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)] Timely Initial HQS Inspection..	177
9. I.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]	178
Time Standards for Repairs	179
9. I.D. SPECIAL [24 CFR 982.405(c)].....	179
9. I.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]	180
9. I.F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401(a)]	181
Modifications	181
9. I.G. EMERGENCY REPAIR ITEMS [24 CFR 982.401(a)].....	181
Smoke Detectors	182
9. I.H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)	
[24 CFR 982.405, 982.453].....	182
Abatement.....	182
Reduction of Payments	183
Termination of Contract.....	183
9. I.H. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]	184

9. I.I. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]	184
CHAPTER 10	194
DENIAL OR TERMINATION OF ASSISTANCE	194
[24 CFR 982.552, 982.553]	194
PART I: GROUNDS FOR TERMINATION OF ASSISTANCE	194
10. I.A. OVERVIEW.....	194
10. I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455].....	194
10. I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE	195
10. I.D. MANDATORY TERMINATION OF ASSISTANCE.....	195
Eviction [24 CFR 982.552(b)(2), Pub.L. 109-162]	195
Failure to Provide Consent [24 CFR 982.552(b)(3)].....	196
Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)].....	196
Failure to Provide Social Security Documentation [24 CFR 5.218(c)].....	196
Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)].....	196
10. I.E. FAILURE OF STUDENTS TO MEET ONGOING ELIGIBILITY REQUIREMENTS [24 CFR 982.552(B)(5) AND FR 4/10/06]	196
10. I.F. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS	197
Mandatory Policies [24 CFR 982.553(b) and 982.551(l)].....	197
Use of Illegal Drugs and Alcohol Abuse	197
Drug-Related and Violent Criminal Activity [24 CFR 5.100]	198
Other Authorized/Reasons for Termination of Assistance [24 CFR 982.552(c), Pub.L. 109- 162]	198
Insufficient Funding [24 CFR 982.454].....	200
Determination of Insufficient Funding	201
PART II: APPROACH TO TERMINATION OF ASSISTANCEOVERVIEW	202
10. II.A. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]	202
10. II.B. ALTERNATIVES TO TERMINATION OF ASSISTANCE	202
Change in Household Composition	202
10. II.C. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE.....	203
Evidence.....	203
Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]	203
10. II.D. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [42 USC 1437(d)] [42 USC	

1437(f)].....	204
Victim Documentation.....	205
Terminating the Assistance of a Domestic Violence Perpetrator	206
FVWOP Confidentiality Requirements	207
10. II.E. TERMINATION NOTICE [HCV GB, p. 15-7].....	207
Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)].....	208
10. II.F. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE.....	208
PART III: TERMINATION OF TENANCY BY THE OWNER.....	209
10. III.A. OVERVIEW	209
10-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162]	209
Serious or Repeated Lease Violations	209
Violation of Federal, State, or Local Law.....	209
Criminal Activity or Alcohol Abuse.....	209
Evidence of Criminal Activity	210
Other Good Cause.....	210
10-III.C. EVICTION [24 CFR 982.310(E) AND (F) AND FORM HUD-52641-A, TENANCY ADDENDUM]	211
10-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), Pub.L. 109-162].....	211
10-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY’S ASSISTANCE	212
CHAPTER 11	216
OWNERS.....	216
[24 CFR 982.54, 982.306, 982.453]	216
INTRODUCTION.....	216
PART I. OWNERS IN THE HCV PROGRAM	216
11. I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]	216
Recruitment.....	216
Retention	217
11. I.B. BASIC HCV PROGRAM REQUIREMENTS	218
11. I.C. OWNER RESPONSIBILITIES [24 CFR 982.452, PUB.L. 109-162].....	219
11. I.D. OWNER QUALIFICATIONS.....	220

Owners Barred from Participation [24 CFR 982.306(a) and (b)].....	220
Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2].....	220
Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]	220
Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]	221
Legal Ownership of Unit	223
Proof of Ownership.....	223
Mandatory Direct Deposit.....	223
11-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]	224
PART II. HAP CONTRACTS	224
11. II.A. OVERVIEW	224
11. II.B. HAP CONTRACT CONTENTS	225
The HAP contract contains three parts.	225
11. II.C. HAP CONTRACT PAYMENTS.....	226
General.....	226
Owner Certification of Compliance.....	227
Late HAP Payments [24 CFR 982.451(a)(5)].....	227
Termination of HAP Payments [24 CFR 982.311(b)].....	228
BREACH OF HAP CONTRACT [24 CFR 982.453]	229
11. II.D. HAP CONTRACT TERM AND TERMINATIONS	230
11. II.E. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD- 52641].....	231
Part III: FVWOP GRIEVANCE PROCEDURE FOR LANDLORDS.....	232
11. III.A. FVWOP GRIEVANCE PROCEDURE SUMMARY:.....	232
11. III.B. DEFINITIONS:	233
11. III.C. HOUSING CHOICE VOUCHER LANDLORDS	234
Notification of the Adverse Action.....	234
Informal Hearing Request Procedures	234
The Informal Hearing Meeting	235
CHAPTER 12	237
PROGRAM INTEGRITY	237
INTRODUCTION.....	237
Quality Control and Analysis of Data.....	238

Independent Audits and HUD Monitoring	238
Individual Reporting of Possible Errors and Program Abuse.....	239
12. I.B. INVESTIGATING ERRORS AND PROGRAM ABUSE	239
When FVWOP Will Investigate	239
Consent to Release of Information [24 CFR 982.516]	239
Analysis and Findings.....	239
Consideration of Remedies	240
Notice and Appeals	240
PART II: CORRECTIVE MEASURES AND PENALTIES SUBSIDY UNDER- OR OVERPAYMENTS.....	240
12. II.A. CORRECTIONS.....	241
Reimbursement	241
12. II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE	241
Family Reimbursement to FVWOP [HCV GB pp. 22-12 to 22-13]	241
FVWOP Reimbursement to Family [HCV GB p. 22-12].....	242
Prohibited Actions	242
Penalties for Program Abuse	243
12. II.C.OWNER-CAUSED ERROR OR PROGRAM ABUSE	243
Owner Reimbursement to FVWOP	243
Prohibited Owner Actions.....	243
Remedies and Penalties.....	244
12. II.D. FVWOP-CAUSED ERRORS OR PROGRAM ABUSE	245
Repayment to FVWOP	245
FVWOP Reimbursement to Family or Owner.....	245
Prohibited Activities	245
12. II.E. CRIMINAL PROSECUTION.....	246
12. II.F. FRAUD AND PROGRAM ABUSE RECOVERIES	246
CHAPTER 13	247
SPECIAL HOUSING TYPES	247
[24 CFR 982.601]	247
13.I.A. INTRODUCTION	247
13.I.B. VERIFICATION OF NEED FOR REASONABLE ACCOMMODATION	247
13. I.C. CONGREGATE HOUSING [24 CFR 982.606].....	247

Congregate Housing Lease and HAP Contract [24 CFR 982.607]	247
Housing Quality Standards	248
13. II.A. GROUP HOMES [24 CFR 982.610, 982.612].....	248
Group Home Rent and HAP Contract [24 CFR 982.613]	248
Maximum Subsidy	249
Utility Allowance.....	249
Housing Quality Standards	249
13. III.A. MANUFACTURED HOMES [24 CFR 982.620].....	249
Housing Quality Standards [24 CFR 982.621]	249
13. IV.A. HOMEOWNERSHIP [24 CFR 982.625 through 982.643]	250
13.IV.B. OVERVIEW [24 CFR 982.625]	250
FAMILY ELIGIBILITY [24 CFR 982.627]	250
SELECTION OF FAMILIES [24 CFR 982.626]	252
ELIGIBLE UNITS [24 CFR 982.628].....	253
13. IV.C. ADDITIONAL FVWOP REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]	254
13. IV.D. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]	255
13. IV.E. HOME INSPECTIONS, CONTRACT OF SALE, AND DHA DISAPPROVAL OF SELLER [24 CFR 982.631]	256
Home Inspections.....	256
Contract of Sale.....	257
Disapproval of a Seller.....	257
13. IV.F. FINANCING [24 CFR 982.632]	257
13. IV.G. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]	258
13.IV.H. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634].....	259
13.IV.I. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]	260
13. IV.J. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]	263
13. IV.J. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637].....	263
13. I.M. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]	264

13. V.A. PROJECT-BASED VOUCHER PROGRAM.....	265
13. V.B. INTRODUCTION	265
13. V.C. CAP ON NUMBER OF PBV UNITS	265
13. V.E. PROJECT SELECTION PROCEDURES [24 CFR 983.5]1	265
13. V.E. SITE SELECTION STANDARDS.....	266
13. V.F. HAP ONTRACT	267
13. V.G. RENT DETERMINATION.....	267
13. V.H. ANNUAL INSPECTIONS	268
13. V.I. PARTICIPANT SELECTION	268
CHAPTER 14	270
INFORMAL REVIEWS AND HEARINGS	270
14. IA. OVERVIEW.....	270
14.IIB. INFORMAL REVIEWS	270
14-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, Pub.L. 109-162]	272
CHAPTER 14	281
MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY	281
INTRODUCTION.....	281
14-I.A. ALLOWABLE MOVES.....	281
14-I.B. RESTRICTIONS ON MOVES.....	283
PART 15: PORTABILITY	286
15-II.A. OVERVIEW	286
15-II.B. INITIAL PHA ROLE	287
15-II.C. RECEIVING PHA ROLE	293
CHAPTER 16	300
APPENDICES	300

INTRODUCTION

ABOUT THE REFERENCES CITED IN THE ADMINISTRATIVE PLAN AUTHORITIES FOR POLICIES IN THE ADMINISTRATIVE PLAN

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

HUD

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

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

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

State Law

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

Industry Practice

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

RESOURCES CITED IN THE ADMINISTRATIVE PLAN

The model administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the model administrative plan may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the model administrative plan or that may be helpful to you.

Abbreviations

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

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

Resources and Where to Find Them

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

Document and Location
Code of Federal Regulations http://www.gpoaccess.gov/cfr/index.html
Earned Income Disregard FAQ www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm
Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/eivsecguidepha.pdf
Executive Order 11063 http://www.hud.gov/offices/fheo/FHLaws/EXO11063.cfm
Federal Register http://www.access.gpo.gov/su_docs/aces/fr-cont.html
General Income and Rent Determination FAQs www.hud.gov/offices/pih/programs/ph/rhiip/faq_gird.cfm
Housing Choice Voucher Program Guidebook (7420.10G), April 2001 www.hud.gov/offices/pih/programs/hcv/forms/guidebook.cfm
HUD-50058 Instruction Booklet http://portal.hud.gov/hudportal/documents/huddoc?id=50058i.pdf
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 http://www.hud.gov/offices/fheo/library/huddojstatement.pdf

Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007

<http://www.hud.gov/offices/fheo/promotingfh/FederalRegistepublishedguidance.pdf>

Notice PIH 2012-10, Verification of Social Security Numbers (SSNs) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report

<http://portal.hud.gov/huddoc/pih2012-10.pdf>

Notice PIH 2010-19, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System

<http://www.hud.gov/offices/pih/publications/notices/10/pih2010-19.pdf>

Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice

<http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>

OMB Circular A-133

http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2010

Project-Based Voucher Program; Final Rule

<http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf>

Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.

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

VAWA Final Rule

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

Verification FAQ

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

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

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

The HUD Web site is <http://portal.hud.gov/hudportal/HUD>.

Guidebooks, handbooks and other HUD resources may be found at the HUDClips Web site: http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips

CHAPTER 1 OVERVIEW OF THE PROGRAM AND PLAN

PART 1: THE PHA

1-I.A. OVERVIEW

The Franklin Vance Warren Opportunities (FVWOP) receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. The PHA is not a federal department or agency. A public housing agency (PHA) is a governmental or public

body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The PHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

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

There are three parts to this chapter:

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

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

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

I-I.B. ORGANIZATION AND STRUCTURE OF THE FVWOP

Franklin-Vance-Warren Opportunity, Inc., is a Community Action Agency established as a result of the Economic Opportunity Act of 1964. In addition to the Section 8 Program, this Agency also operates a variety of other programs designed to reduce poverty or address the conditions of poverty in the counties that we serve. Board of Commissioners are comprised of 27 members from the counties of Franklin, Vance, and Warren which represent members from local government, low income and the private sector. There should be one-third representation from each segment of the community.

1-I.C. MISSION STATEMENT

This Agency's Mission is "To mobilize and utilize resources to combat poverty by providing services, technical assistance and programmatic activities that improve the quality of life for individuals, children, youth, elderly citizens, and families in the areas of: housing, rehabilitation, and energy conservation; early childhood education; youth development; family services; transitional training and employment; alternative agriculture crops; aquaculture; technology education; and entrepreneurship opportunities."

1-I.D. FVWOP PROGRAMS

The FVWOP's administrative plan is applicable to the operation of the Housing Choice Voucher program, HCV tenant protection vouchers and Mainstream Non-Elderly Disabled (NED) vouchers.

The FVWOP's administrative plan is applicable to the operation of the Family Self-Sufficiency

and HCV homeownership program where applicable. Upon award of other targeted funding, these policies will also apply.

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

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

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

The FVWOP 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.

1-II.B. HCV PROGRAM BASICS

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

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

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

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

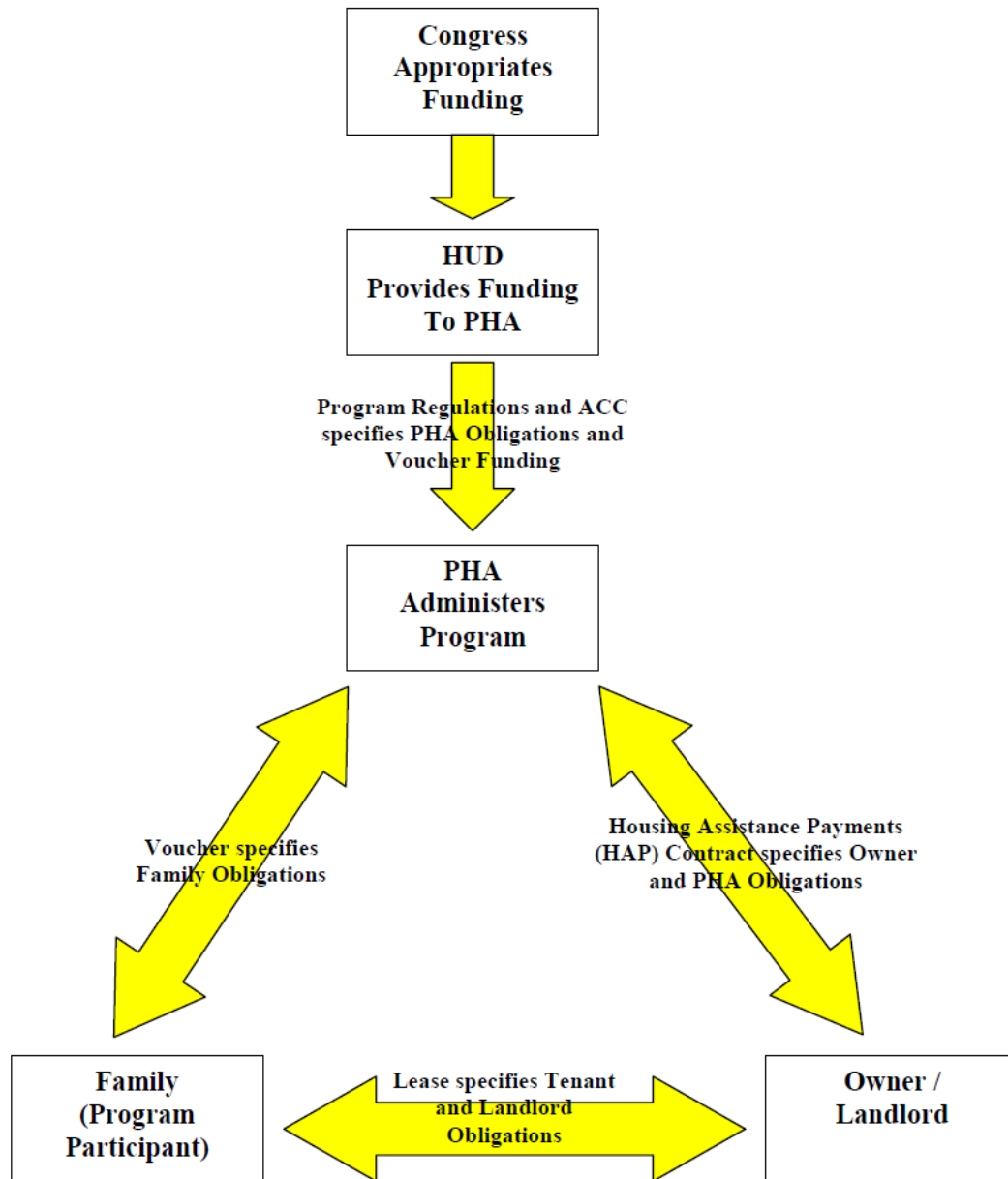
1-II.C. THE HCV PARTNERSHIPS

To administer the HCV program, the PHA enters into a contractual relationship with HUD.(Consolidated Annual Contributions Contract). The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the PHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

The chart on the following page illustrates key aspects of these relationships.

The HCV Relationships:



What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What does the PHA do?

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

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

What Does The Owner Do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good renters.
 - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.

The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.

- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit by making necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What Does The Family Do?

The family has the following responsibilities:

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

1-III.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements

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

PART III: The HCV Administrative Plan

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

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

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

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

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

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

- Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapter 4: Subsidy Standards);
- Issuing or denying vouchers, including PHA 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 PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension (Chapter 3: Establishing Preferences and Maintaining the Wait List);

- Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4: Subsidy Standards);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2: Fair Housing);
- 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 14);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);

- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

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

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

Creating policies based upon HUD guidance is not mandatory, but provides a PHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but PHAs should carefully think through those decisions.

1-III.C. ORGANIZATION OF THE PLAN

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

1-III.D. UPDATING AND REVISING THE PLAN

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

FVWOP Policy:

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

CHAPTER 2 FAIR HOUSING AND EQUAL OPPORTUNITY INTRODUCTION

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

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

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

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

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

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same 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. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status.

FVWOP 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)
- Violence Against Women Reauthorization Act of 2005 (VAWA)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012

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

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

FVWOP Policy

No state or local nondiscrimination laws or ordinances apply.

2-I.B. NONDISCRIMINATION

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

No person shall on the ground of race, color, sex, religion, national or ethnic origin, age, familial status or disability to be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the FVWOP housing programs (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.

FVWOP Policy:

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

The FVWOP 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 any of these factors

- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

Providing Information to Families and Owners

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payment (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.

FVWOP Policy:

Fair housing laws are explained to applicants at the briefing session. A Summary of Federal and State fair housing laws, and a copy of the HUD brochure, “Fair Housing – Equal Opportunity for All” are included in the information packet given to the family at the briefing. These documents are also available upon request.

Whenever possible, HCV staff will attend local Fair Housing update training sponsored by HUD and other local organizations to keep current with new developments.

Discrimination Complaints

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

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

FVWOP Policy:

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

The PHA will attempt to remedy discrimination complaints made against the FVWOP.

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

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

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

PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

2-II.A. OVERVIEW

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

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

FVWOP Policy:

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

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

A specific name and phone number will be indicated as the contact for requests for accommodation for persons with disabilities.

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

“We are pleased to provide assistance. If you need any help, please ask.”

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 PHA 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" on the PHA, or result in a “fundamental alteration” in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

Types of Reasonable Accommodations

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

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

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 PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

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

FVWOP Policy

FVWOP has developed and implemented procedures through which individuals may request a reasonable accommodation. The process for making such requests shall be accessible to all persons. All communications that are a part of the process should be in plain language that the individual applicant can understand, in a format that is appropriate to meet the needs of the person with disabilities. If necessary, a format other than written documents should be used.

Any meetings that must be held concerning an applicant's request for a reasonable accommodation shall be held in a location accessible to the applicant

FVWOP shall make available to all persons applying for the HCV Program or currently HCV program participants, notice of the option to request a reasonable accommodation and a form for requesting a reasonable accommodation.

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

2-II.D. VERIFICATION OF DISABILITY

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

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

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

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

When verifying a disability, the PHA will follow the verification policies provided in Chapter 6. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 10. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

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

FVWOP Reasonable Accommodation Policy and Procedure state the following:

As an initial matter, FVWOP will assume that the person requesting a reasonable accommodation is an expert as to his/her own disability and that the accommodation may be appropriate in relation to it.

FVWOP will also assume as an initial matter that the information the person provides regarding his/her own needs is accurate and the method proposed for accommodating those needs is the most appropriate one to pursue.

However, FVWOP will seek from the person documentation and/or other verification of the effect of the disability on the person and the method(s) proposed to accommodate it.

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

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

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of the PHA 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 PHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the PHA may verify the need for the requested accommodation.

FVWOP Reasonable Accommodation Policy and Procedure state the following:

Decisions on requests for reasonable accommodation shall be made within thirty (30) days after the date on which the application is complete. If the FVWOP requests that an applicant supply additional information that is reasonably necessary for the FVWOP to make a decision on the applicant's request for an accommodation, the applicant should provide the requested information, or otherwise respond to the FVWOP's request, within a reasonable time period but no less than 20 days from the date of the letter.

If the FVWOP (Executive Director) denies a request for a reasonable accommodation, it must explain to the applicant in writing the basis for its decision and reason why the request is being denied.

FVWOP shall keep written records in participant or applicant files of its decisions to grant or deny any request for reasonable accommodation for a period of no less than three (3) years from the date of the request.

FVWOP shall, consistent with applicable laws, develop procedures for keeping information supplied by the applicant related to the nature or effects of the applicant's disability confidential and available only to persons within the FVWOP who are directly involved in decisions regarding the request for reasonable accommodation.

Under no circumstances shall the FVWOP deny a request for reasonable accommodation based on a lack of sufficient information without first informing the applicant of its need

for additional information and affording the applicant a reasonable opportunity to provide it.

Determinative Factors:

1. Whether the applicant is a qualified "individual with [a] disability".
2. Whether the requested accommodation is related to the disability.
3. Whether the requested accommodation is "reasonable."

A request for an accommodation shall be considered "reasonable" as long as it does not create an undue financial hardship and administrative burden or constitute a fundamental alteration in the HCV program.

The determination of whether an accommodation constitutes an undue financial and administrative burden shall be made on a case-by-case basis, taking into account the circumstances and resources available at the time of the decision.

If granting the requested accommodation would create an undue financial and administrative burden, FVWOP shall comply with the request to the extent it can do so without undergoing undue burden(s) as described above.

If granting the requested accommodation would constitute a fundamental alteration in the HCV program, FVWOP will deny the request.

Each request for an accommodation should be considered as an individual request and should be granted if the particular accommodation requested meets the criteria outlined above and will not constitute a fundamental alteration in itself. The fact that granting an accommodation for one person could set a precedent, and that granting requests by a substantial number of other persons for the same accommodation could have a significant impact on the HCV program shall not constitute a sufficient basis for finding that a particular accommodation constitutes a fundamental alteration.

If the FVWOP believes that there is no reasonable alternative to the reasonable accommodation request, the PHA will notify the family, in writing, of its determination within 5 calendar days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the PHA's decision through the grievance process (see Chapter 16).

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

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6]. At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

FVWOP Policy

To meet the needs of persons with hearing impairments, FVWOP will use the “711” Telecommunications Relay Service (TRS).

People who can hear and speak clearly, people who are deaf, hard-of-hearing or deaf/blind, people who can speak clearly but have difficulty hearing; and people who can hear clearly but have difficulty speaking on the phone can use the TRS. TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without disabilities. Dialing “711” automatically connects to a TRS operator. The relay service allows people to dial “711” to access all relay services anywhere within the U.S., 24 hours a day, free of any surcharges to all callers within the U.S. Through use of the “711” Telecommunications Relay Service, FVWOP staff can answer calls in real-time just like they do for other callers.

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

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party adult 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 PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- Notice PIH 2006-13
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

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

- This plan describes the key policies that govern the PHA’s responsibilities with regard to physical accessibility.
- Notice PIH 2006-13 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans

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

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

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

2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

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

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

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

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

PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the Federal Register.

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

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

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

2-III.B. ORAL INTERPRETATION

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

FVWOP Policy

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

Where feasible, the FVWOP will provide qualified interpreters for all group meetings at no cost to the applicant and/or client. Notices announcing the meeting, including appointment letters, will advise individuals of the ability to request this language assistance. FVWOP has a bilingual staff person available to provide interpreting services as needed.

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

Where feasible, the FVWOP will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

Where feasible and possible, the FVWOP will encourage the use of qualified community volunteers.

2-III.C. WRITTEN TRANSLATION

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

FVWOP Policy:

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

The following HUD forms are available in 10 languages in the Forms Library on the HUD website. The 10 languages are: Arabic, Cambodian, Chinese, Creole, French, Hmong, Korean, Russian, Spanish, and Vietnamese. Additional brochures and materials are also available in various languages on the Forms Library of the HUD website.

- HUD-9886 – Authorization for the Release of Information/Privacy Act Notice
- HUD-50066 – Certification of Domestic Violence, Dating Violence or Stalking
- HUD-52517 – Request for Tenancy Approval
- HUD-52641- Housing Assistance Payments (HAP) Contract
- HUD-52641-A – Tenancy Addendum
- HUD-52646 – Voucher
- HUD-52649 – Statement of Homeowner Obligations (voucher program)
- HUD-52650- Family Self-Sufficiency (FSS) Program Contract of Participation
- HUD-52652- FSS Program Escrow Account Credit Worksheet
- HUD-593- A Good Place to Live (Note: This form is available in Arabic, Cambodian, Chinese, Creole, English, French, and Hmong.)

Translation of other documents, if needed, can be provided orally, upon request.

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

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the FVWOP does not translate vital written materials, but provides written notice in the

primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

2-III.D. IMPLEMENTATION PLAN

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

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

FVWOP Policy:

FVWOP will provide language assistance services upon request.

The following exhibit needs to be moved under the section that the disability section related to the definition of a person with a disability.

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

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

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

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

CHAPTER 3

ESTABLISHING PREFERENCES (PRIORITIES) AND MAINTAINING THE WAITING LIST

[24 CFR Part 5, Subpart D; 982.54(d) (1); 982.204, 982.205, 982.206]

INTRODUCTION

When a family wishes to receive Housing Choice Voucher Assistance, the family must submit an application that provides FVWOP with information needed to determine the family's eligibility. HUD requires FVWOP to place all families that apply for assistance on a waiting list.

It is the PHA's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan. HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that FVWOP affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p 1-4]

Adherence to the selection policies described in this chapter ensures that FVWOP will be in compliance with all relevant fair housing requirements as described in Chapter 2. By maintaining an accurate waiting list, FVWOP will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are utilized.

This chapter explains the four local preferences which the FVWOP has adopted to meet local housing needs, defines the eligibility criteria for the preferences and explains the PHA's system of applying them. In addition, this chapter describes HUD and FVWOP 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 FVWOP will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how FVWOP'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 FVWOP will use to keep the waiting list current.

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

PART I: THE APPLICATION PROCESS

3-I.A. OVERVIEW

This part describes the policies that guide FVWOP'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 FVWOP's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

3-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16]

Any family that wishes to receive HCV assistance or to occupy a project-based voucher unit must apply for admission to the program. HUD permits FVWOP to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by FVWOP. Due to the demand for housing in the Housing Authority jurisdiction, the Housing Authority may take applications on an open enrollment basis, depending on the length of the waiting list. The Housing Authority also may choose to use the lottery system for adding only a specific number of applicants to the waiting list.

The application constitutes the basic record of each applicant for admission. Each applicant is required to supply the information requested on the application form and to sign the application certifying the accuracy of the information provided.

The Housing Authority will inform applicants about available preferences when the applicants receive applications and will give applicants an opportunity to show that they qualify for available preferences.

Applicants will be notified of the requirement to submit evidence of citizenship or eligible immigration status. Completed applications will be accepted for all applicants and the Housing Authority will verify the information provided. In the case of a lottery, pre-applications will be received and only a specific number selected at random for addition to the waiting list.

The completed application will be dated and time stamped upon its return to the Housing Authority. In the case of a lottery, the order in which the applicants are randomly selected will be used in lieu of the date and time stamp.

Persons with disabilities who require a reasonable accommodation in completing an application may call the Housing Authority to make special arrangements. The Housing Authority uses either its Telecommunications Relay Service (TRS) or the North Carolina 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.

FVWOP Policy

Families may obtain application forms from the FVWOP's office during normal business hours.

Completed applications must be returned to FVWOP by mail or in person. Applications must be complete in order to be accepted by FVWOP for processing. If an application is incomplete, FVWOP will notify the family of the additional information required.

3-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

FVWOP 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 FVWOP application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). FVWOP must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or FVWOP must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of FVWOP'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 FVWOP's policies related to ensuring access programs and activities by people with limited English proficiency (LEP).

PART II: MANAGING THE WAITING LIST

3-II.A. OVERVIEW

The PHA 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.

3-II.B. PLACEMENT ON THE WAITING LIST

FVWOP must review each complete application received and make a preliminary assessment of the family's eligibility. FVWOP must accept applications from families for whom the list is open

unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, FVWOP must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

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

Ineligible for Placement on the Waiting List

FVWOP Policy

If FVWOP 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, FVWOP will send written notification of the ineligibility determination within 10 business days of receiving a complete application. 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 14)

Eligible for Placement on the Waiting List

FVWOP Policy

FVWOP will send written notification of the preliminary eligibility determination within 10 business days of receiving a complete application. . (? Due to when the list is closed the letter could be sent because you will constantly be sending out letters if you do it based on when we receive a completed application.)

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

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by FVWOP.

3-II.C. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

HUD requires that FVWOP maintain a single waiting list for the HCV Program unless it serves more than one county or municipality. Such PHA's are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

FVWOP Policy

FVWOP will use a single waiting list for admission to its Housing Choice Voucher program except for Special Admissions, applicants will be selected from FVWOP's waiting list in accordance with policies, preferences and income targeting requirements defined in this Administrative Plan.

The PHA will maintain information that permits proper selection from the waiting list. The waiting list contains the following information for each applicant listed:

- Applicant Name
- Family Unit Size (number of bedrooms family qualifies for under PHA subsidy standards)
- Date and time of application
- Qualification for any local preference (priorities)
- Racial or ethnic designation of the head of household (computer)

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program FVWOP operates if 1) the other programs' waiting lists are open; and 2) the family is qualified for the other programs.

HUD permits, but does not require, that FVWOP maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

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

FVWOP Policy

FVWOP will not merge the HCV waiting list with the waiting list for any other program FVWOP operates.

3-II.D. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

Closing the Waiting List

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

FVWOP Policy

FVWOP will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months for the most current applicants. Where FVWOP has particular preferences or funding criteria that require a specific category of family, FVWOP may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

If the waiting list has been closed, it cannot be reopened until FVWOP publishes a notice in local newspapers of general circulation, minority media, the agency website, 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.

FVWOP Policy

FVWOP will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

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

- Primary newsletters in the Legal notice section of the primary newspaper(s) in the counties where the Waiting List is to be opened.
- Minority-owned newspapers (if published in the county).
- Foreign language newspapers (if published in the county).
- Notices circulated for posting at social service agencies, community centers and local Housing Agency offices.
- Lobby of the FVWOP office

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

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

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

FVWOP 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

FVWOP outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

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

FVWOP Policy

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

3-II.F. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

FVWOP Policy

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

3-II.G. UPDATING THE WAITING LIST [24 CFR 982.204]

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

Purging the Waiting List

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

FVWOP Policy

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

To update the waiting list, FVWOP will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that FVWOP has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, or by email. Responses should be postmarked or received by FVWOP not later than 15 business days from the date of FVWOP's letter.

If the family fails to respond within 15 business days, the family will be removed from the waiting list without further notice.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 15 business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the Executive Director may reinstate the family if she/he determines the lack of response was due to FVWOP error, or to circumstances beyond the family's control.

Removal from the Waiting List

FVWOP Policy

If at any time an applicant family on the waiting list is determined by FVWOP to be ineligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because FVWOP has determined that the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review of FVWOP's decision (see Chapter 16) [24 CFR 982.201(f)].

PART III: SELECTION FOR HCV ASSISTANCE

OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

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

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

3. III.A SELECTION AND HCV FUNDING SOURCES

SPECIAL ADMISSIONS [24 CFR 982.54(d)(e), 982.203]

HUD may award funding for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit such families whether or not they are on the waiting

list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The PHA must maintain records showing that such families were admitted with special program funding

If HUD awards a PHA program funding that is targeted for specifically named families, the PHA will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The PHA maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian housing project;
- A family residing in a multi-family rental housing project when HUD sells, forecloses, or demolishes the project;
- For housing covered by the Low-Income Housing Preservation and Resident Homeownership Act of 1990;
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

FVWOP Policy:

Applicants, who are admitted under Special Admissions, rather than from the waiting list, are identified by codes in the automated system and are maintained on separate lists.

Targeted Funding [24 CFR 982.204 (e)]

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in this chapter.

FVWOP Policy

FVWOP administers the following types of targeted funding:

- Mainstream-Non-Elderly Disabled (NED) vouchers

Regular HCV Funding

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in this chapter.

3.III.B SELECTION METHOD

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

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

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

FVWOP Policy

Residents who live and/or work in Franklin, Vance and Warren Counties: Families who live and/or work in FVWOP's jurisdiction will be admitted before families outside of FVWOP's jurisdiction.

WAITING LIST PREFERENCES [24 CFR 982.207]

An applicant will not be granted any Local preference (priority) if any member of the family has been evicted from housing assisted under a 1937 Housing Act program during the past five years because of drug-related criminal activity.

The PHA will grant an exception to such a family if:

- The responsible member has successfully completed a rehabilitation program.
- The evicted person clearly did not participate in or know about the drug-related activity.
- The evicted person no longer participates in any drug-related criminal activity.

If an applicant makes a false statement in order to qualify for a Local preference (priority), the PHA will deny admission to the program for the family.

An applicant that is income eligible and qualified as a family may submit an application for admission to the Voucher program, except:

1. If an applicant owes money to the PHA.
2. If an applicant was a past participant of a PHA and has been terminated for fraud.
3. If an applicant has been convicted of illegal drug-related criminal activities, including family members that will occupy the unit.
4. If an applicant has been convicted of violent criminal activities, including family members that will occupy the unit.
5. If an applicant has committed actual or threatened abusive or violent behavior toward PHA personnel.

LOCAL PREFERENCES (PRIORITIES) [24 CFR 982.207; HCV p. 4-16]

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

The FVWOP uses the following Local Preference (Priorities) system:

A. Each preference is ranked by date and time of receipt of a completed application. Each applicant can have multiple preferences giving more weight to their application.

B. Preference One (Priority One):

Residents who live and/or work in Franklin, Vance, and Warren Counties: Families who live and/or work in FVWOP's jurisdiction will be admitted before families outside of FVWOP's jurisdiction.

C. Preference Two (Priority Two):

The four (4) elements of Priority Two will carry equal weight and selection will be by time and date.

Displacement by Disaster: applicant's unit is uninhabitable because of a disaster, such as a fire or flood;

Displacement by Government Action: Activity carried on by any agency of the United States or by any state or local governmental body or agency in connection with code enforcement or a public improvement or development program;

Homeless Veterans: 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.

Displacement by Domestic Violence: An applicant is displaced by domestic violence if the applicant has vacated a housing unit because of domestic violence or the applicant lives in a housing unit with a person who engages in domestic violence.

The PHA will require evidence that the family has been displaced as a result of fleeing violence in the home; for example, the family is living in a domestic violence shelter. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home.

The following criteria are used to establish a family's eligibility for this preference:

- actual or threatened physical violence directed against the applicant or the

applicant's family by a spouse or other household member who lives in the unit with the family,

- actual or threatened violence must have occurred within the past 30 days or be of a continuing nature, to qualify for this preference, and the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless the PHA gives prior written approval.

The PHA will approve the return of the abuser to the household under the following conditions:

- The PHA verifies that the abuser has received therapy or counseling that appears to minimize the likelihood of recurrence of violent behavior and a counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family.

If the abuser returns to the family without approval of the PHA, the PHA will deny or terminate assistance for breach of the certification.

Treatment of Single Applicants

Singles Preference (This is HUD's former singles preference from 5.405)

§ 960.202 Eligibility and targeting for admission. (a) Who is eligible? (1) Basic eligibility. An applicant must meet all eligibility requirements in order to receive housing assistance. At a minimum, the applicant must be a family, as defined in § 5.403 of this title, and must be income-eligible, as described in this section. Such eligible applicants include single persons.

The 1998 Act eliminated the statutory preference for single persons who are elderly, have

disabilities, or are displaced over other single persons. However, the repeal of federal preferences does not prevent a PHA from choosing to establish a local preference for single persons who are elderly, have disabilities, are displaced, or are homeless over other single persons.

FVWOP Policy:

FVWOP does not have a policy that pertains to Singles Preference

INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION
[24 CFR 982.207]

At the time of application, an applicant's entitlement to a Local Preference(s) may be made on the following basis.

An applicant's certification that they qualify for a preference(s) will be accepted without verification at the initial application. When the family is selected from the waiting list for the final determination of eligibility, the preference(s) will be verified.

If the preference(s) verification indicates that an applicant does not qualify for the preference(s), the applicant will be returned to the waiting list without the Local Preference(s) and given an opportunity for a meeting.

If, at the time the family applied, the preference(s) claim was the only reason for placement of the family on the list and the family cannot verify their eligibility for the preference(S) as of the date of application, the family will be removed from the list.

Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference(s). Applicants are required to notify the PHA in writing when their circumstances change.

When an applicant claims a change in preference(s), he/she will be placed on the waiting list in the appropriate order determined by the newly-claimed preference.

If the family's verified annual income, at final eligibility determination, does not fall under the Extremely Low-Income limit and the family was selected for income targeting purposes before family(ies) with a higher preference, the family will be returned to the waiting list.

Cross-Listing of Different Housing Programs and Section 8 [24 CFR 982.205(a)]

The PHA will merge its waiting lists for all programs.

Other Housing Assistance [24 CFR 982.205(b)]

Other housing assistance means a federal, State or local housing subsidy, as determined by HUD, including public housing.

The PHA may not take any of the following actions because an applicant has applied for, received, or refused other housing: [24 CFR 982.205(b)]

- Refuse to list the applicant on the PHA waiting list for tenant-based assistance;
- Deny any admission preference for which the applicant is currently qualified;
- Change the applicant's place on the waiting list based on preference(s), date and time of application, or other factors affecting selection under the PHA selection policy; or remove the applicant from the waiting list.

However, the PHA may remove the applicant from the waiting list for tenant-based assistance if the PHA has offered the applicant assistance under the voucher program.

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

HUD requires that extremely low-income (ELI) families make up at least 75% of the families admitted to the HCV program during FVWOP'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, a DHA 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)].

FVWOP Policy

FVWOP 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.

Order of Selection

The PHA system of preferences may select families based on local preferences according to the date and time of application, or by a random selection process (lottery) [24 CFR 982.207(c)]. If a PHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

The PHA's method for selecting applicants from a preference(s) category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the administrative plan.

FVWOP Policy:

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the FVWOP's hierarchy of

preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the FVWOP.

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

Local Preferences (Priorities)

Local preferences (priorities) will be used to select families from the waiting list.

The FVWOP has selected the following system to apply local preferences:

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the FVWOP's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by the FVWOP. The only deviation from this will be to meet the income targeting requirement that 75% of the families selected must be at 30% of median income to meet QHWRRA mandated income guidelines.

Pre-applications that arrive in the housing authority's office on the same day and at the time will be entered on the waiting list alphabetically by time and date; for example, applications arriving by mail.

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

FINAL VERIFICATION OF PREFERENCES (PRIORITIES) [24 CFR 982.207]

Preference (priority) information on applications will be updated as applicants are selected from the waiting list. At that time, the PHA will:

Obtain necessary verifications of preferences (priorities) at the interview and by third party verification.

PREFERENCE (PRIORITIES) DENIAL [24 CFR 982.207]

If the PHA denies a preference(s) (priority/priorities), the PHA will notify the applicant in writing of the reasons why the preference(s) (priority/priorities) was/were denied and offer the applicant an opportunity for an informal review with the Executive Director or the person designated by the Executive Director to conduct the review

If the preference(s) priority/priorities denial is upheld as a result of the meeting, or the applicant does not request a meeting, the applicant will be placed on the waiting list without benefit of the preference(s) (priority/priorities). Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference(s) (priority/priorities), they will be removed from the Waiting List.

Removing Names from Waiting List

The Waiting List will be updated periodically as needed, and in the sole discretion of the PHA, to ensure that all applicants and applicant information is current and timely.

1. Applicants will be mailed a notice to their last known address requesting information regarding their continued interest in remaining on the waiting list. If an applicant fails to provide the requested and necessary information in the time allowed, the applicant will be dropped from the waiting list and required to reapply.
2. The notice will include a date by which the applicant must contact the PHA to update their application. Any mailings to the applicant which require a response will state that failure to respond within (10) business days will result in the applicant's name being dropped from the waiting list. An extension of (10) business days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.
3. If an applicant fails to respond to a mailing from the PHA, they will be removed from the waiting list. If the applicant did not respond to the PHA request for information or updates because of a family member's disability, the PHA will reinstate the applicant in the family's former position on the waiting list.
4. If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file.
5. If a letter is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have ten (10) business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.
6. The PHA does not accept responsibility for mail delays and/or non-receipt by the applicant.
7. If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless the Executive Director determines there were circumstances beyond the person's control that prevented a response. The following exceptions, if determined to exist, will be acceptable to warrant reinstatement: hospitalization, serious illness, or family emergency.
8. Applicants are required to inform the PHA of changes in family composition, income, address, or preference (priority) status in writing (the PHA may accept changes by

telephone as a reasonable accommodation) within ten (10) business days of the change. Failure to report changes properly in a timely manner may cause the family to be removed from the waiting list for failure to update and keep their pre-application data current.

CHAPTER 4

SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

4-I.A. OVERVIEW

HUD guidelines require that PHA's establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards. This Chapter explains the subsidy standards which will be used to determine the voucher size (family unit size) for various family sizes when they are selected from the waiting list, as well as the PHA's procedures implemented when a family's size changes, or a family selects a unit size that is different from the Voucher.

4. I.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

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

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

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- For subsidy standards, an adult is a person 18 years or older.

- All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.
- The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.
- One bedroom will be generally be assigned for each two family members. The PHA will consider factors such as family characteristics including sex, age, or relationship.
- Consideration will also be given for medical reasons and the presence of a live-in aide.
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

The FVWOP does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The FVWOP's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

Generally, the PHA assigns one bedroom to two people within the following guidelines:

- Persons of different generations, persons of the opposite sex (other than spouses), and unrelated adults will be allocated a separate bedroom.
- Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship).
- Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.
- Space may be provided for a child who is away at school but who lives with the family during school recesses.
- Adults of different generations will have separate bedrooms.
- Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.
- A single pregnant woman with no other family members must be treated as a two-person family.
- Single person families shall be allocated one bedroom.

FVWOP Policy:

The number of bedrooms appropriate to the family size:

GUIDELINES FOR DETERMINING VOUCHER SIZE			
Voucher Size	Persons in Household		HQS Standards
	Minimum Number	Maximum Number	
0 Bedroom	1	1	0 Bedroom
1 Bedroom	1	2	1 Bedroom
2 Bedrooms	2	4	2 Bedrooms
3 Bedrooms	3	6	3 Bedrooms
4 Bedrooms	4	8	4 Bedrooms
5 Bedrooms	6	10	5 Bedrooms
6 Bedrooms	8	12	6 Bedrooms

4.I.C. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.403(a) & (b)]

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

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

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

FVWOP Policy:

FVWOP will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation.

Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family’s continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

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

PHA Error

If the PHA errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size so that the family is not penalized.

Changes for Applicants

The voucher size is determined prior to the briefing by comparing the family composition to the PHA subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the PHA subsidy standards, the above-referenced guidelines will apply.

Changes for Participants

The members of the family residing in the unit must be approved by the PHA. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the PHA within 10 calendar days. The above-referenced guidelines will apply.

Under housed and Over housed Families

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the PHA will issue a new voucher for the appropriate size and assist the family in locating a suitable unit.

Premerger Certificate Families Only:

- If a premerger certificate family is occupying a unit which has more bedrooms than allocated under the PHA's subsidy standards, and the gross rent exceeds the FMR/Exception Rent for the family size under the PHA's subsidy standards, the PHA will issue the family a new voucher, for the appropriate size, and assist the family in finding a suitable unit.
- Premerger certificate families who are under-occupying a unit as defined above will be issued a voucher and given a minimum of sixty days to locate a new unit before assistance is terminated.
- In such cases the PHA's voucher term extension policy will be applicable.
- The PHA will also notify the family of the circumstances under which an exception will be granted, such as:
 - If a family with a disability is under housed in an accessible unit.
 - If a family requires the additional bedroom because of a health problem which has been

verified by the PHA.

– The PHA and family have been unable to locate a unit within 120 days.

Transfer Waiting List

When a change in family composition requires a larger Voucher size and no funds are available, the family will be placed on a Transfer List.

Families will be selected from the Transfer List before families are selected from the applicant waiting list. This assures that families who are already on the program are in the appropriate sized units.

Families will be selected from this list when there is available funding, in the following sequence:

1. A participant family (whose family composition has been approved by the PHA) who requires a change in Voucher size because they are living in a unit which is overcrowded according to Housing Quality Standards.
2. A participant family (whose family composition has been approved by the PHA) who requires a change in Voucher size under the Subsidy Standards, but not under Housing Quality Standards.
3. All others who require a transfer as determined by the PHA.

4.1.D. UNIT SIZE SELECTED [24 CFR 982.402(c)]

The family may select a different size dwelling unit than that listed on the Voucher. There are three criteria to consider:

1. Subsidy Limitation: The family unit size as determined for a family under the PHA subsidy standard for a family assisted in the voucher program is based on the PHA's adopted payment standards. The payment standard for a family shall be the *lower of*:
 - The payment standard amount for the family unit size (the bedroom size show on the Voucher); or
 - The payment standard amount for the unit size rented by the family.
2. Utility Allowance: The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Voucher.
3. Housing Quality Standards: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

CHAPTER 5

FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

[24 CFR Part 5, Subparts E and F; 982.153, 982.551]

5. I.A. OVERVIEW

The PHA will use the methods as set forth in this Administrative Plan to verify and determine that family income at admission and at annual reexamination is correct. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations.

This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. The PHA's policies in this Chapter address those areas which allow the PHA discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

5. I.B. INCOME AND ALLOWANCES [24 CFR 5.609]

Income: Includes all monetary amounts which are received on behalf of the family. For purposes of calculating the Total Tenant Payment, HUD defines what is to be calculated and what is to be excluded in the federal regulations. In accordance with this definition, all income which is not specifically excluded in the regulations is counted.

Annual Income is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

Adjusted Income is defined as the Annual income minus any HUD allowable expenses and deductions.

HUD has five allowable deductions from Annual Income:

1. Dependent Allowance: \$480 each for family members (other than the head or spouse who are minors, and for family members who are 18 and older who are full-time students or who are disabled).
2. Elderly/Disabled Allowance: \$400 per family for families whose head or spouse is 62 or over or disabled.
3. Allowable Medical Expenses: Deducted for all family members of an eligible

elderly/disabled family.

4. Child Care Expenses: Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
5. Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

PART I: ANNUAL INCOME

5-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from 24 CFR 5.609.

5.609 Annual income.

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

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph [5.609(c)].
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 5-1)
- Annual Income Exclusions (Exhibit 5-2)
- Treatment of Family Assets (Exhibit 5-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 5-4)
- The Effect of Welfare Benefit Reduction (Exhibit 5-5)

Sections 5-I.B and 5-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 5-I.D). Verification requirements for annual income are discussed in Chapter 7.

5-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.

5. I.C. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT [24 CFR 982.54(d)(10), 982.312, 982.551]

The PHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the PHA must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

"Temporarily absent" is defined as away from the unit for more than 60 days.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The PHA will evaluate absences from the unit using this policy.

FVWOP Policy

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member.

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

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.

FVWOP Policy:

If a child has been placed in foster care, the FVWOP 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.

If the time period is to be greater than 3 of months from the date of removal of the children, the Voucher size will be reduced. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the PHA's subsidy standards.

Absence Due to Full-time Student Status

Full-time students who attend school away from the home will be treated in the following manner:

FVWOP Policy:

A student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent.

If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of Voucher size.

Absent Head, Spouse, or Co-head

FVWOP Policy:

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

Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]

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

FVWOP Policy:

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

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the PHA's "Absence of Entire Family" policy.

Return of Permanently Absent Family Members

FVWOP Policy:

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

Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the PHA will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required both to notify the PHA before they move out of a unit and to give the PHA information about any family member's absence from the unit.

Families must notify the PHA at least 30 days before leaving the unit or no less than 5 days after leaving the unit if they are going to be absent from the unit for more than 30 consecutive days. If the entire family is absent from the assisted unit for more than 180 consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

If it is determined that the family is absent from the unit, the PHA will not continue assistance payments.

HUD regulations require the PHA to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days.

"Absence" means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, the PHA may:

- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Check with the post office

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar-day limit. If the absence which resulted in termination of assistance was due to a person's disability, and the

PHA can verify that the person was unable to notify the PHA in accordance with the family's responsibilities, and if funding is available, the PHA may reinstate the family as an accommodation if requested by the family, as long as the period was within 180 days.

Joint Custody of Dependents

FVWOP Policy:

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependent(s). If there is a dispute about which family should claim them, FVWOP 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.

Caretaker for Children

FVWOP Policy

The approval of a caretaker is at the owner and FVWOP's discretion and subject to the owner and FVWOP's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the FVWOP will take the following actions.

- If neither parent remains in the household nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the FVWOP will treat that adult as a visitor for the first 30 days.
- If by the end of that period, court-awarded custody or legal guardianship has been awarded to the caretaker, the Voucher will be transferred to the caretaker.
- If the appropriate agency cannot confirm the guardianship status of the caretaker, the FVWOP will review the status at 30-day intervals. If custody or legal guardianship has not been awarded by the court, but the action is in process, the FVWOP will secure verification from social services staff or the attorney as to the status of the caretaker.
- If custody is awarded for a limited time in excess of stated period, the FVWOP will state in writing that the transfer of the Voucher is for that limited time or as long as

they have custody of the children. The FVWOP will use discretion as deemed appropriate in determining any further assignment of the Voucher on behalf of the children.

- The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made. The FVWOP will transfer the Voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 60 days and it is reasonable to expect that custody will be granted.
- When the FVWOP approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The FVWOP will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.
- If a member of the household is subject to a court order that restricts him/her from the home for more than 3 months, the person will be considered permanently absent.

Visitors

FVWOP Policy

- Any adult not included on the HUD 50058 who has been in the unit more than **30 consecutive days without PHA approval**, or a total of **60 days in a 12-month period**, will be considered to be living in the unit as an unauthorized household member.
- Absence of evidence of any other address will be considered verification that the visitor is a member of the household. Statements from neighbors and/or the landlord will be considered in making the determination.
- Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.
- The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the PHA will terminate assistance since prior approval was not requested for the addition.
- Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 90 days per year without being considered a member of the household.
- In a joint custody arrangement, if the minor is in the household less than 183 days per year, the minor will be considered to be an eligible visitor and not a family member.

Reporting Additions to Owner and PHA

FVWOP Policy

- Reporting changes in household composition to the FVWOP is both a HUD and a FVWOP requirement.
- The family obligations require the family to request FVWOP approval to add any other family member as an occupant of the unit and to inform the FVWOP of the birth, adoption or court-awarded custody of a child. The family must request prior approval of additional household members in writing.
- If the family does not obtain prior written approval from the FVWOP, any person the family has permitted to move in will be considered an unauthorized household member.
- In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report it to the FVWOP in writing within 10 calendar days of the maximum allowable time.
- Families are required to report any additions to the household in writing to the FVWOP within 10 calendar days of the move-in date.
- An interim reexamination will be conducted for any additions to the household. In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court-awarded custody.

Reporting Absences to the PHA

FVWOP Policy

- Reporting changes in household composition is both a HUD and a FVWOP requirement. If a family member leaves the household, the family must report this change to the FVWOP, in writing, within 10 calendar days of the change and certify as to whether the member is temporarily absent or permanently absent.
- The FVWOP will conduct an interim evaluation for changes which affect the Total Tenant Payment in accordance with the interim policy

PART II: ADJUSTED INCOME

5.II.A. INTRODUCTION

OVERVIEW

HUD regulations require PHAs 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 [PHA] 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

FVWOP Policy

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

If a family has an accumulated debt for medical or disability assistance expenses, the PHA 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 PHA may require the family to provide documentation of payments made in the preceding year.

5-II.B. DEPENDENT DEDUCTION

An allowance of \$480 is deducted from annual income 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)].

5-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].

5. I.B. 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 PHA

The PHA 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]

FVWOP Policy:

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

“Minimum rent” refers to Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

FVWOP Policy:

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 PHA's applicable payment standard:

1. The family will pay more than the TTP, and
2. At initial occupancy, the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income.

The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

PHA Subsidy [24 CFR 982.505(b)]

The PHA 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 PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

FVWOP Policy

The FVWOP will make utility reimbursements to the tenant's utility company.

5. I.C. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

OVERVIEW

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

The PHA recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The PHA will review all relevant circumstances brought to the PHA's attention regarding financial hardship as it applies to the minimum rent. The following section states the PHA's procedures and policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed.

Criteria for Hardship Exception

In order for a family to qualify for a hardship exception, the family's circumstances must fall under one of the following HUD hardship criteria:

1. The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or local assistance;
2. The family would be evicted as a result of the imposition of the minimum rent requirement;
3. The income of the family has decreased because of changed circumstances, including:
 - Loss of employment
 - Death in the family
 - Other circumstances as determined by the PHA or HUD

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

FVWOP Policy

The FVWOP 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.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption			
Assume the PHA has established a minimum rent of \$35.			
Family Share – No Hardship		Family Share – With Hardship	
\$0	30% of monthly adjusted income	\$0	30% of monthly adjusted income
\$15	10% of monthly gross income	\$15	10% of monthly gross income
N/A	Welfare rent	N/A	Welfare rent
\$35	Minimum rent	\$35	Minimum rent
Minimum rent applies. TTP = \$35		Hardship exemption granted. TTP = \$15	

PHA Notification to Families of Right to Hardship Exception

The PHA will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. “Subject to minimum rent” means the minimum rent was the greatest figure in the calculation of the greatest of 30% of monthly adjusted income, 10% of monthly income, minimum rent or welfare rent.

If the minimum rent is the greatest figure in the calculation of Total Tenant Payment, PHA staff will include a copy of the notice regarding hardship request, which was provided to the family, in the family’s file.

The PHA notification will advise families that hardship exception determinations are subject to PHA review and hearing procedures.

The PHA will review all family requests for exception from the minimum rent due to financial hardships.

- All requests for minimum rent hardship exceptions are required to be in writing.
- The PHA will request documentation as proof of financial hardship.
- The PHA will use its standard verification procedures to verify circumstances which have resulted in financial hardship.
- Requests for minimum rent exception must include a statement of the family hardship that qualifies the family for an exception.
- The PHA will make the determination of hardship within 30 calendar days.

Suspension of Minimum Rent

The PHA will grant the minimum rent exception to all families who request it, effective the first of the following month.

The minimum rent will be suspended until the PHA determines whether the hardship is:

- Covered by statute
- Temporary or long term

"Suspension" means that the PHA must not use the minimum rent calculation until the PHA has made this decision.

During the minimum rent suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly.

If the PHA determines that the minimum rent is not covered by statute, the PHA will impose a minimum rent including payment for minimum rent from the time of suspension.

Temporary Hardship

If the PHA determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

The PHA will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. (See "Owner and Family Debts to the PHA" chapter for Repayment agreement policy).

FVWOP Policy

The FVWOP will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Duration Hardships [24 CFR 5.616(c)(3)]

If the PHA determines that there is a qualifying long-term financial hardship, the PHA must exempt the family from the minimum rent requirements.

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

FVWOP Policy

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.

- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

Retroactive Determination

The PHA will reimburse the family for any minimum rent charges which took effect after October 21, 1998 that qualified for one of the mandatory exceptions.

If the family is owed a retroactive payment, the PHA will provide reimbursement in the form of a cash refund to the family.

5.1.D APPLYING PAYMENT STANDARDS [24 CFR 982.505]

Overview

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

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

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA'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 PHA has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

Changes in Payment Standards

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

Decreases

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. The PHA will determine the payment standard for the family as follows:

Step 1: At the first regular reexamination following the decrease in the payment standard, the PHA will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

Step 2: The PHA will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the PHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The PHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

Step 3: At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the PHA has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

Increases

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation

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

5.1.E. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using PHA subsidy standards, whichever is the lowest of the two [FR Notice 06/25/14]. See Chapter 5 for information on the PHA's subsidy standards.

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

Reasonable Accommodation

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

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

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

FVWOP Policy

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

5.1.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 PHA must prorate the assistance provided to a mixed family.

The PHA 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 PHA subsidy for a family is calculated at \$500 and two of four family members are ineligible, the PHA subsidy would be reduced to \$250.

5. I.D. ANTICIPATING ANNUAL INCOME

FVWOP is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

Basis of Annual Income Projection

FVWOP generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- FVWOP believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

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

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

FVWOP Policy

FVWOP will use HUD’s EIV system. When EIV is obtained and the family does not dispute the EIV employer data, FVWOP will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, FVWOP will make every effort to obtain at least 4 consecutive pay stubs dated within the last 60 days.

FVWOP will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in this plan:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or
- If FVWOP determines additional information is needed.

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

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

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

Known Changes in Income

If FVWOP verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

Example: An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case, FVWOP would calculate annual income as follows: $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$.

The family may present information to demonstrate that implementing a change before its effective date would create a hardship for the family. In such cases, FVWOP will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if FVWOP's policy on reexaminations does not require interim reexaminations for other types of changes.

When tenant-provided documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

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

Projecting Income

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

5. I.E. EARNED INCOME

Types of Earned Income Included in Annual Income *Wages and Related Compensation*

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

FVWOP Policy

For persons who regularly receive bonuses or commissions, FVWOP will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, FVWOP will use the prior year amounts. In either case, the family may provide, and FVWOP will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, FVWOP will count only the amount estimated by the employer. The file will be documented appropriately.

FVWOP Policy

For persons who work seasonally or 10 months during the year, FVWOP will determine the income of the family based on the actual salary earned for the year. The family will not be entitled to an interim reduction during seasonal recess or breaks. FVWOP may request the family to submit the annual contract received from the employer to verify the salary should further documentation become necessary.

Some Types of Military Pay

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

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

FVWOP Policy:

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

Children's Earnings

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

Certain Earned Income of Full-Time Students

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

Income of a Live-in Aide

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

Income Earned under Certain Federal Programs

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

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

Resident Service Stipend

Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for FVWOP 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 FVWOP’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)].

FVWOP Policy:

FVWOP 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].

FVWOP 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, FVWOP 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 FVWOP’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.

FVWOP Policy:

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

Earned Income Tax Credit

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

Earned Income Disallowance

The earned income disallowance for persons with disabilities is discussed in this chapter.

5. I.F. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617]

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

Eligibility

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

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

Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "prior income."

FVWOP Policy

FVWOP defines *prior income*, or *pre-qualifying income*, as the family member's last certified income prior to qualifying for the EID.

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

Initial 12-Month Exclusion

During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

FVWOP Policy:

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

Second 12-Month Exclusion and Phase-In

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

Lifetime Limitation

The EID has a four-year (48 months) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

FVWOP Policy:

During the 48-month eligibility period, FVWOP will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

5. I.G. MINIMUM INCOME

There is no minimum income requirement. Families who report zero income are required to

complete a written certification quarterly. Family members 18 and older will be required to complete the Zero Income Affidavit and the Head of Household claiming zero income must complete the Zero Income Reporting Form.

5.I.H. BUSINESS INCOME [24 CFR 5.609(b)(2)]

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

Business Expenses

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

FVWOP Policy:

To determine business expenses that may be deducted from gross income, FVWOP 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 PHA to deduct from gross income expenses for business expansion.

FVWOP Policy:

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

Capital Indebtedness

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

FVWOP Policy:

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means FVWOP 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 PHA 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.

FVWOP Policy:

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, FVWOP 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

FVWOP Policy:

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

5.I.H. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

Any contribution or gift received every 3 months or more frequently will be considered a "regular" contribution or gift, unless the amount is less than \$100 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See "Verification Procedures" chapter for further definition.)

If the family's expenses exceed its known income, the PHA will inquire of the family regarding contributions and gifts.

5. I.I. ALIMONY AND CHILD SUPPORT [24 CFR 5.609]

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment.

If the amount of child support or alimony received is less than the amount awarded by the court, the PHA will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

The PHA will accept verification that the family is receiving an amount less than the award if:

The PHA receives verification from the agency responsible for enforcement or collection. The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

5.I.J. LUMP-SUM RECEIPTS [24 CFR 5.609]

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, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [24 CFR 5.609(c)(14)].

In order to determine amount of retroactive tenant rent that the family owes as a result of the lump sum receipt:

The PHA uses a calculation method which calculates retroactively or prospectively depending on the circumstances.

The PHA will calculate prospectively if the family reported the payment within 10 calendar days and retroactively to date of receipt if the receipt was not reported within that time frame.

FVWOP Policy

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

Prospective Calculation Methodology

If the payment is reported on a timely basis, the calculation will be done prospectively and will result in an interim adjustment calculated as follows:

The entire lump-sum payment will be added to the annual income at the time of the interim adjustment.

The PHA will determine the percent of the year remaining until the next annual recertification as of the date of the interim

At the next annual recertification, the PHA will apply the percentage balance to the lump sum and add it to the rest of the annual income.

The lump sum will be added in the same way for any interims which occur prior to the next annual recertification.

If amortizing the payment over one year will cause the family to pay more than 30 percent of the family's adjusted income (before the lump sum was added) for Total Tenant Payment, the PHA and family may enter into a Payment Agreement, with the approval of Executive Director, for the balance of the amount over the 30 percent calculation. The beginning date for this Payment Agreement will start as soon as the one year is over.

Retroactive Calculation Methodology

The PHA will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.

The PHA will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the PHA.

The family has the choice of paying this "retroactive" amount to the PHA in a lump sum. At the PHA's option, the PHA may enter into a Payment Agreement with the family.

The amount owed by the family is a collectible debt even if the family becomes unassisted.

Attorney Fees

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

5. I.K. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS [24 CFR 5.603(d)]

Contributions to company retirement/pension funds are handled as follows:

While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.

After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

5.1. L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(d)(3)]

The PHA must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The PHA will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcies are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

5. I.M. CHILD CARE EXPENSES [24 CFR 5.603]

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.”

In the case of a child attending private school, only after-hours care can be counted as child care expenses. Child care expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child who can provide the child care. Examples of those adult members who would be considered *unable* to care for the child include:

- The abuser in a documented child abuse situation, or
- A person with disabilities or older person unable to take care of a small child, as verified by a reliable knowledgeable source.
- Allowability of deductions for child care expenses is based on the following guidelines:

Child care to work: The maximum child care expense allowed must be less than the amount earned by the person enabled to work. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

5.I.N. MEDICAL EXPENSES [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 [VG, p. 28].

Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

FVWOP Policy

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used as a reference to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
<p>Services of medical professionals</p> <p>Surgery and medical procedures that are necessary, legal, noncosmetic</p> <p>Services of medical facilities</p> <p>Hospitalization, long-term care, and in-home nursing services</p> <p>Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor</p> <p>Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)</p>	<p>Substance abuse treatment programs</p> <p>Psychiatric treatment</p> <p>Ambulance services and some costs of transportation related to medical expenses</p> <p>The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)</p> <p>Cost and continuing care of necessary service animals</p> <p>Medical insurance premiums or the cost of a health maintenance organization (HMO)</p>
<p>Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.</p>	

- Nonprescription medicines must be doctor-recommended in order to be considered a medical expense.
- Nonprescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.
- Acupressure, acupuncture and related herbal medicines, and chiropractic services will be considered allowable medical expenses.

Families That Qualify for Both Medical and Disability Assistance Expenses

FVWOP Policy

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 FVWOP will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

5.I.O. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]

Applicability

Proration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

Prorated Assistance Calculation

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

O. REDUCTION IN BENEFITS

See Chapter on recertification on how to handle income changes resulting from welfare program requirements.

5.II.A. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS [24 CFR 982.153, 982.517]

The same Utility Allowance Schedule is used for all tenant-based programs.

The utility allowance is intended to cover the cost of utilities not included in the rent. The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

The PHA's utility allowance schedule and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards.

The PHA may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The PHA must classify utilities in the utility allowance schedule according to the following general categories: space heating, air conditioning, cooking, water heating, water, sewer, trash collection; [other electric,] refrigerator (for tenant supplied refrigerator), range (cost of tenant-supplied range); and other specified services.

An allowance for tenant-paid air conditioning will be provided in those cases where the majority of housing units in the market have central air conditioning or are wired for tenant installed air conditioners [24 CFR 982.517].

A tenant-paid air conditioning allowance will be provided throughout our jurisdiction.

The PHA will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination.

The approved utility allowance schedule is given to families along with their Voucher. The utility allowance is based on the actual unit size selected.

Where families provide their own range and refrigerator, the PHA will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance.

Where the calculation on the HUD 50058 results in a utility reimbursement payment due the family, the PHA will provide a Utility Reimbursement Payment for the family each month. The check will be made out: directly to the utility company.

CHAPTER 6
VERIFICATION PROCEDURES
[24 CFR PART 5, SUBPARTS B, D, E AND F; 982.108]

6. I.A. OVERVIEW

HUD regulations require that the factors of eligibility and Total Tenant Payment/Family Share be verified by the PHA. FVWOP staff will obtain written verification from independent sources whenever possible and will document tenant files whenever third party verifications are not possible as to why third party verification was impossible to obtain.

Applicants and program participants must provide true and complete information to the PHA whenever information is requested. The PHA's verification requirements are designed to maintain program integrity. This Chapter explains the PHA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. FVWOP will obtain proper authorization from the family before requesting information from independent sources.

PART I: 6. I.B. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]

FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

Consent Forms

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Penalties for Failing to Consent [24 CFR 5.232]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

HUD's Verification Hierarchy [Notice PIH 2010-19]

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

FVWOP will verify information through the four methods of verification acceptable to HUD in the following order:

1. Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
2. Up-front Income Verification (UIV) using a non-HUD system
3. Written Third-Party Verification (may be provided by applicant or participant)
4. Written Third-party Verification Form
5. Oral Third-party Verification
6. Self-Certification

Requirements for Acceptable Documents

FVWOP Policy:

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

FVWOP will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, FVWOP would accept the most recent report.

- Print-outs from web pages are considered original documents.

FVWOP staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document, date the original was viewed, and sign the copy.

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

File Documentation

FVWOP must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that FVWOP has followed all of the verification policies set forth in this plan. The record should be

sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

FVWOP Policy:

FVWOP will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When FVWOP is unable to obtain 3rd party verification, FVWOP will document in the family file the reason that third-party verification was not available and will place a photocopy of any original document(s) in the family file. [24 CFR 960.259(c)(1); VG, p.15]

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

Up-front income verification (UIV) refers to FVWOP's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to FVWOP.

FVWOP Policy:

FVWOP will inform all applicants and participants of its use of the following UIV resources during the admission and re-examination process:

HUD's EIV system, NC Fast Online Verification System, or online access to NC Employment Security Commission automated records.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until FVWOP has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of FVWOP.

Use of HUD's Enterprise Income Verification (EIV) System

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

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

EIV Income Reports

The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

FVWOP Policy

The PHA will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files with the applicable annual or interim reexamination documents.

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

EIV system contains data showing earned income, unemployment benefits, social security, and SSI benefits for participant families. HUD requires FVWOP to use the EIV system when available. The following policies will apply when FVWOP has access to HUD's EIV system.

The EIV system contains two main components: tenant income data reports and "exceeds threshold" reports.

Tenant Income Data (TID) Reports

The data shown on TID reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

FVWOP Policy:

FVWOP will obtain TID reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.

TID reports will be compared to family-provided information as part of the annual reexamination process. TID reports may be used in the calculation of annual income, as described in Chapter 6.I.C. TID reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between TID reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

TID reports will be used in interim reexaminations when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits, and to verify that families claiming zero income are not receiving income from any of these sources.

TID reports will be retained in participant files with the applicable annual or interim reexamination documents.

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

Income Discrepancy Reports (IDRs)

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

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

FVWOP Policy:

FVWOP will generate and review IDRs on a monthly basis. The IDR threshold percentage will be adjusted as necessary based on the findings in the IDRs.

In reviewing IDRs, FVWOP will begin with the largest discrepancies.

When FVWOP determines that a participant appearing on the IDR has not concealed or under-reported income, the participant's name will be placed on a list of "false positive" reviews.

To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from IDR processing until a subsequent interim or annual reexamination has been completed.

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

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

EIV Identity Verification

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

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2012-10].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

FVWOP Policy:

FVWOP will identify participants whose identity verification has failed as part of the annual reexamination process.

FVWOP will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When FVWOP determines that discrepancies exist due to FVWOP errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

6. I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

Written Third-Party Verification [Notice PIH 2010-19]

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

FVWOP Policy

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

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

As verification of earned income, the FVWOP will require the family to provide the two most current, consecutive pay stubs.

Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

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

FVWOP Policy

The PHA will send third-party verification forms directly to the third party. Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the PHA.

Oral Third-Party Verification [Notice PIH 2010-19]

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

FVWOP Policy

In collecting third-party oral verification, FVWOP staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires FVWOP to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

FVWOP Policy:

FVWOP will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

FVWOP may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. FVWOP will send a written

request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11th business day, FVWOP will request third-party oral verification.

FVWOP will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file. Regarding third-party oral verification, FVWOP staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification FVWOP will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, FVWOP will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, FVWOP will use any information provided orally in combination with reviewing family-provided documents.

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, FVWOP will use the information from documents on a provisional basis. If FVWOP later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, FVWOP will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of FVWOP's interim reexamination policy.

When Third-Party Verification is Not Required [Notice PIH 2010-19]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Certain Assets and Expenses

FVWOP will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

FVWOP will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

:

FVWOP Policy

FVWOP will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$500 annually *and* the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

FVWOP will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, FVWOP will rely upon review of documents when FVWOP determines that a third party's privacy rules prohibit the source from disclosing information.

FVWOP Policy:

FVWOP also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

FVWOP will document in the family file the reason that the third-party verification was not available and will place a photocopy of the original document(s) in the family file. [VG, p. 15]

If the family cannot provide original documents, FVWOP will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

6. I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

FVWOP Policy:

If FVWOP has determined that third-party verification is not available or not required, FVWOP will use documents provided by the family as verification.

FVWOP may also review documents when necessary to help clarify information provided by third parties. In such cases, FVWOP will document in the file how FVWOP arrived at a final conclusion about the income or expense to include in its calculations.

Self-Certification/Self-Declaration

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

FVWOP Policy:

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

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

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

PART II: VERIFYING FAMILY INFORMATION

6-II.A. VERIFICATION OF LEGAL IDENTITY

FVWOP Policy:

FVWOP will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified School records

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

If none of these documents can be provided and at FVWOP's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to FVWOP and be signed in the presence of a FVWOP representative or FVWOP notary public.

Legal identity will be verified on an as-needed basis.

6. II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV GB, p. 5-12]

For every family member, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

FVWOP will also accept the following documents as evidence if the SSN is provided on the document:

- Driver's license
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union
- Payroll stubs
- Benefit award letters from government agencies; retirement benefit letters; life insurance policies
- Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports an SSN but cannot provide acceptable documentation of the number, FVWOP will require a self-certification stating that documentation of the SSN cannot be provided at this time. FVWOP will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

FVWOP Policy:

FVWOP will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, FVWOP will grant an additional 60 calendar days to provide documentation.

Social security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination or interim re-examination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

When the participating household adds a new member, including a child or children, the participant must submit the new members SSN at the time of the request for assistance or at the time of processing the interim re-examination/recertification of family composition.

SSN Disclosure

In accordance with 24 CFR 5.216, applicants and participants (including each member of the household) are required to disclose his/her assigned SSN, with the exception of the following individuals:

1. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.
 - a. A family that consists of a single household member (including a pregnant individual) who does not have eligible immigration status is **not eligible** for housing assistance and cannot be housed.
 - b. The family that consists of two or more household members **and at least one** household member that has eligible immigration status, is classified as a mixed family, and **is eligible** for prorated assistance in accordance with 24 CFR 5.520. The PHA may **not** deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.
2. Existing program participants, as of January 31, 2010, who have previously disclosed their SSN and HUD has determined the SSN to be valid. PHAs may confirm HUD's validation of the participant's SSN by viewing the household's ***Summary Report*** or the ***Identity Verification Report*** in the EIV system.
3. Existing program participants, as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.

Disclosure of SSNs is considered information subject to the Federal Privacy Act (5 USC 552a, as amended). In accordance with 24 CFR 5.212, the collection, maintenance, use, and dissemination of SSNs, any information derived from SSNs and income information must be conducted, to the extent applicable, in compliance with that Act and all other provisions of Federal, State, and local law.

SSN Documentation:

The PHA must request the applicant and participant (including each member of the household), who are not exempt under the SSN Disclosure Section of this policy, to provide documentation of each disclosed SSN. Acceptable evidence of the SSN consists of:

1. An original SSN card issued by SSA;
2. An original SSA-issued document, which contains the name and SSN of the individual; or
3. An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

It should be noted that most (if not all) individuals who are lawfully present in the U.S. have been assigned a SSN. Many existing laws require the disclosure of the SSN for various purposes. All applicants and participants, including each member of the household (with the exception of those individuals noted in the SSN Disclosure Policy) are required to disclose his/her assigned SSN.

The SSA issues three types of Social Security cards depending on an individual's citizen or non-citizen status and whether or not a non-citizen is authorized by the Department of Homeland Security (DHS) to work in the United States. They include:

1. The first type of card shows the individual's name and SSN only. This is the card most people have and reflects the fact that the holder can work in the U.S. without restriction. SSA issues this card to:
 - a. U.S. citizens; or
 - b. Non-citizens lawfully admitted to the United States for permanent residence and non-citizens with DHS permission to work permanently in the United States (i.e. refugees and asylums)
2. The second type of card bears, in addition to the individual's name and SSN, the legend: "**NOT VALID FOR EMPLOYMENT**". SSA issues this card to lawful non-citizens who do not have DHS permission to work, but are required by law to provide a SSN to obtain general assistance benefits that they already have qualified for.
3. The third type of card bears, in addition to the individual's name and SSN, the legend: "**VALID FOR WORK ONLY WITH DHS AUTHORIZATION**". SSA issues this card to people with DHS permission to work temporarily in the United States. SSA verifies all non-citizens' documents with DHS before a SSN card is issued to a non-citizen.

Rejection of Documentation:

The PHA may reject documentation of the SSN provided by the applicant or participant for only the following reasons:

1. The document is not an original document; or
2. The original document has been altered, mutilated, or not legible; or
3. The document appears to be a forged document (i.e. does not appear to be authentic).

The PHA should explain to the applicant or participant, the reason(s) the document is not acceptable and request the individual to obtain acceptable documentation of the SSN and submit it to the PHA within a 60-day timeframe.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

FVWOP Policy

The FVWOP will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with FVWOP disclosure and documentation requirements upon expiration of the provided time period, the FVWOP will terminate the individual's assistance.

Verification of The SSN:

The PHA shall verify each disclosed SSN by:

1. Obtaining the documentation listed under Section 6 of this Notice from applicants and participants (including each member of the household);
2. Making a copy of the original documentation submitted; returning it to the individual, and retaining a copy in the file folder; and
3. Recording the SSN on line 3n of the form HUD-50058, and transmitting the form HUD-50058 to HUD within a timely manner. PHAs are encouraged to transmit the form HUD-50058 within 30 calendar days of completing the form, to enable HUD to initiate its computer matching efforts. ***Note: not applicable to applicants.***

HUD, via its computer matching program with the SSA, will validate the SSN (along with the individual's name and date of birth) against the SSA's database. EIV will report the status of the identity verification process as **Verified, Failed, Not Verified, or Deceased** on the household ***Summary Report.***

Individual's Without an Assigned SSN:

It is not uncommon for certain individuals to not have a SSA-assigned SSN. Below is a listing of such individuals, which is not all-inclusive:

1. Newborn children (these individuals will be issued a SSN upon SSA confirmation of birth)
2. Non-citizens lawfully present in the U.S. (these individuals will be issued a SSN upon SSA confirmation of the individual's FVWOP documentation or confirmation that the individual is required by law to provide a Social Security number to receive general assistance benefits that they already have qualified for)
3. Non-citizens unlawfully present in the U.S. (these individuals cannot be assigned a SSN)

Citizens and lawfully present non-citizens who state that they have not been assigned a SSN by the SSA, should make such declaration in writing and under penalties of perjury to the PHA. The PHA should maintain the declaration in the tenant file.

FVWOP shall use the Alternate ID (ALTD ID) generator within the Public and Indian Housing Information Center (PIC) to generate a unique identifier for those individuals who do not have or are unable to disclose a SSN.

Once an individual discloses a SSN, the FVWOP will delete the ALT ID, enter the SSN on line 3n of the form HUD-50058, and transmit the form HUD-50058 to HUD within 30 calendar days of receipt of the SSN.

6. II.C. ADDITION OF A NEW HOUSEHOLD MEMBER

When a participant requests to add a new household member, who is at least six years of age or under the age of six and has an assigned SSN, to the family, the participant must disclose the assigned SSN and provide the PHA with the documentation referenced in Section 2 of this notice at the time of such request, or at the time of processing the interim or annual re-examination of family income and/or composition. If the family is unable to provide the required documentation of the SSN, the PHA may not add the new household member until the family provides such documentation.

When a participant requests to add a new household member, who is under the age of six and does not have an assigned SSN, the participant must disclose the assigned SSN and provide the PHA with documentation referenced in Section 2 of this notice within 90 calendar days of the child being added to the household.

If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA is required to grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, if the PHA determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside

the control of the family. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

The child is to be included as part of the assisted household and entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. The PHA should generate an ALT ID as referenced in Section 5 of this policy. Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the PHA must terminate the family's tenancy or assistance, or both of the entire family.

In accordance with 24 CFR 5.218, the following penalties apply for non-compliance with the SSN disclosure and documentation requirements:

1. **Applicants.** The PHA must deny eligibility of assistance to an applicant if she/he (including each member of the household required to disclose his/her SSN) does not disclose a SSN and/or provide documentation of such SSN. However, if the family is otherwise eligible to participate in the program, the family may maintain his/her position on the waiting list for 60 days. (The PHA may grant the individual one 90-day extension, if in its discretion, determines that the individual's failure to comply with the SSN documentation requirement was due to unforeseen circumstances and outside the control of the family.) If, upon the expiration of the provided time period, the individual fails to comply with the SSN disclosure and documentation requirements, the PHA must terminate the tenancy or assistance, or both of the individual.
2. **Participants.** The PHA must terminate the assistance of Section 8 program participants (the entire household) and terminate the tenancy of Public Housing participants (the entire household) if she/he (including each member of the household required to disclose his/her SSN) does not disclose his/her SSN and provide the required documentation.

However, if the family is otherwise eligible for continued assistance or tenancy in the program, the PHA, at its discretion, may defer the family's termination and provide the family an opportunity to comply with the requirement within a period **not to exceed** 90 calendar days from the date the PHA determined the family non-compliant with the SSN disclosure and documentation requirement, provided that the PHA determines:

1. The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and
2. There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline.
3. If the family is unable to comply with the requirements by the specified deadline, the PHA must terminate the tenancy or assistance, or both of the entire family

6-II.D. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members, an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

FVWOP Policy:

If an official record of birth or evidence of social security retirement benefits cannot be provided, FVWOP will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification statement.

Age must be verified only once during continuously-assisted occupancy.

6. II.E. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Basic of the primary household relationships are provided in the Eligibility chapter.

FVWOP Policy:

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

FVWOP Policy:

Certification by the head of household is normally sufficient verification. If FVWOP has reasonable doubts about a marital relationship, FVWOP will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves out to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

FVWOP Policy:

Certification by the head of household is normally sufficient verification. If FVWOP has reasonable doubts about a separation or divorce, FVWOP will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

FVWOP Policy:

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill).

Foster Children and Foster Adults

FVWOP Policy:

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

6-II.F. VERIFICATION OF STUDENT STATUS

General Requirements

FVWOP Policy:

FVWOP requires families to provide information about the status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family reports child care expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education*.

Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

FVWOP Policy:

In accordance with the verification hierarchy described in Section 7-1.B, FVWOP will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- The student is a person with disabilities, as defined in Section 3-II.E, and received assistance prior to November 30, 2005.
- The student is otherwise individually eligible, or has parents who, individually or jointly, are eligible on the basis of income to receive assistance under section 8 of the 1937 Act.

If FVWOP cannot verify at least one of these exemption criteria, FVWOP will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, FVWOP will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from his/her parents (see below).

Independent Student

FVWOP Policy:

FVWOP will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing or verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0.

6-II.G. DOCUMENTATION OF DISABILITY

FVWOP must verify the existence of a disability in order to allow certain income disallowances and deductions from income. FVWOP is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. FVWOP may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If FVWOP receives a verification document that provides such information, FVWOP will not place this information in the tenant file. Under no circumstances will FVWOP request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at www.os.dhhs.gov.

The above-cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiring into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiring to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiring to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

FVWOP Policy:

For family members claiming disability who receive disability benefits from the SSA, FVWOP will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, FVWOP will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), FVWOP will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to FVWOP.

Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

FVWOP Policy:

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

6-II.H. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and FVWOP verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible non-citizen or an ineligible non-citizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual, it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

FVWOP may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

FVWOP Policy:

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

Eligible Immigrants

Documents Required

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible non-citizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-2 at the end of this chapter summarizes documents family members must provide.

FVWOP Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, FVWOP must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

FVWOP will follow all USCIS protocols for verification of eligible immigration status.

6-II.I. VERIFICATION OF PREFERENCE STATUS

FVWOP must verify any preferences claimed by an applicant.

FVWOP Policy:

FVWOP will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. FVWOP will verify this preference using FVWOP's termination records.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides FVWOP policies that supplement the general verification procedures specified in Part I of this chapter.

6-III.A. EARNED INCOME

Tips

FVWOP Policy:

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

6-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME

FVWOP Policy:

- Business owners and self-employed persons will be required to provide:
- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- FVWOP will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.
- At any reexamination, FVWOP may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.
- If a family member has been self-employed less than three (3) months, FVWOP will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months.

- If the family member has been self-employed for three (3) to twelve (12) months FVWOP will require the family to provide documentation of income and expenses for this period and use that information to project income.

6-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

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].

Social Security/SSI Benefits

FVWOP Policy:

To verify the SS/SSI benefits of applicants, FVWOP will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), FVWOP will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant has received the benefit verification letter, they will be required to provide it to FVWOP.

To verify the SS/SSI benefits of participants, FVWOP will obtain information about Social Security/SSI benefits through the HUD EIV System. If benefit information is not available in HUD systems, FVWOP will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) FVWOP will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the participant has received the benefit verification letter, they will be required to provide it to FVWOP.

Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA

must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2012-1].

FVWOP Policy

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

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)]. *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(14)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

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-III.D. ALIMONY OR CHILD SUPPORT

FVWOP Policy:

The way FVWOP will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be sought in the following order. If payments are made through a state or local entity, FVWOP will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

- Third-party verification from the person paying the support
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules
- Copy of the latest check and/or payment stubs
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it *receives irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts
- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts
- Note: Families are not required to undertake independent enforcement action.

6-III.E. ASSETS AND INCOME FROM ASSETS

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. FVWOP needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

FVWOP Policy:

- FVWOP will verify the value of assets disposed of only if:
- FVWOP does not already have a reasonable estimation of its value from previously collected information, or the amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and FVWOP verified this amount. Now the person reports that she has given this \$10,000 to her son. FVWOP has a reasonable estimate of the value of the asset; therefore, re-verification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic.

Therefore, FVWOP will verify the value of this asset.

6-III.F. NET INCOME FROM RENTAL PROPERTY

FVWOP Policy:

The family must provide:

- A current executed lease for the property that shows the rental amount or certification from the current tenant
- A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with
- Schedule E (Rental Income). If schedule E was not prepared, FVWOP will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

6-III.G. RETIREMENT ACCOUNTS

FVWOP Policy:

When third-party verification is not available, the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, FVWOP will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

Upon retirement, FVWOP will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, FVWOP will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

6-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

FVWOP must obtain verification for income exclusions only if, without verification, FVWOP would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, FVWOP will confirm that FVWOP records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

FVWOP Policy:

FVWOP will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, FVWOP will report the amount to be excluded as indicated on documents provided by the family.

6-III.I. ZERO ANNUAL INCOME STATUS

FVWOP Policy:

FVWOP will check sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS/SSI, etc. are not received by the families claiming zero annual income. When processing an action related to households which claim zero annual income, the Housing Specialist will require the affected household member to complete a "Zero Income Affidavit". Should the family report contributions from other sources or entities, FVWOP will require that a Contributions Affidavit be completed, and the name, address and identification (i.e. driver's license) of the contributing party be provided. All notices from the contributing party indicating amount contributed, must be notarized. FVWOP will count the income from contributions as the family's income. Each household member aged 18 or older that reports zero annual income must submit a zero income affidavit.

For all family members, age 18 or older who report \$0 - \$1200 annual income, FVWOP will conduct a credit check.

Should the family record expenses without reporting contributions, an affidavit must be executed by all family members age 18 or older. FVWOP will require the family to recertify income every 90 days until income is received in the household. If it is discovered the family understated income, withheld income or assets, FVWOP will adjust the tenant share of the rent retroactively to the date FVWOP verified the income was received by the family member. The family may execute a repayment agreement in order to compensate FVWOP for the resulting overpayment of HAP remitted to the property owner, and the family will not receive thirty-day advance notification of the changes affecting the tenant share. In this case, FVWOP will offer the family the opportunity to execute a repayment agreement.

6-III.J. STUDENT FINANCIAL ASSISTANCE

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

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

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

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance

Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.

- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition* will have the meaning given this term by the institution of higher education in which the student is enrolled and will include any other fees and charges required by the institution for enrollment [FR 5/20/14, p. 28939].

FVWOP Policy:

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), FVWOP will request third-party written verification of both the source and the amount from the educational institution attended by the student as well as from any other person or entity providing such assistance, as reported by the student.

In addition, FVWOP will request written verification from the institution of higher education regarding the student's tuition amount.

If FVWOP is unable to obtain third-party written verification of the requested information, FVWOP will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

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

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

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

5-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) and updated by FR Notice 5/20/14 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), FR Notice 5/20/14]. 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) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
 - (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 - (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
 - (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
 - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
 - (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
 - (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
 - (k) A lump sum or periodic payment 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.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
 - (l) 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)
 - (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
 - (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
 - (o) 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* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
 - (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
 - (r) 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)
 - (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
 - (t) 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)
 - (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)
 - (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

6-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with FVWOP policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

FVWOP Policy:

If FVWOP is required to determine the income eligibility of a student's parents, FVWOP will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). FVWOP will send the request directly to the parents, who will be required to certify their income under penalty of perjury. The parents will be required to submit the information directly to FVWOP. The required information

must be submitted (postmarked) within 10 business days of the date of FVWOP's request or within any extended timeframe approved by FVWOP.

FVWOP reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

6-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that FVWOP verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. FVWOP must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full-time student

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. FVWOP must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

6-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

FVWOP Policy:

FVWOP will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

- Third-party verification form signed by the provider, when possible. If third-party verification is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case, FVWOP will make a best effort to determine what expenses from the past are likely to continue to occur in the future. FVWOP will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months will be required.

In addition, FVWOP must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. FVWOP must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 for FVWOP's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

FVWOP Policy:

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

FVWOP Policy:

When anticipated costs are related to on-going payment of medical bills incurred in past years, FVWOP will verify:

- The anticipated repayment schedule
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

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

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

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)]. The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

Policies related to disability assistance expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

Amount of Expense

Attendant Care

Eligible Attendant Care

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

FVWOP Policy

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

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

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

FVWOP Policy:

FVWOP will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Third-party verification form signed by the provider, when possible
- If third-party verification is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source
- If third-party verification or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months will be required.

Auxiliary Apparatus

Eligible Auxiliary Apparatus

FVWOP Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals

trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

FVWOP Policy:

Expenses for auxiliary apparatus will be verified through:

- Third-party verification of anticipated purchase costs of auxiliary apparatus
- If third-party verification is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months
- If third-party verification or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, FVWOP must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

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.

FVWOP Policy

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

FVWOP Policy

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

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

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. FVWOP will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

FVWOP must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

FVWOP Policy:

FVWOP will seek third-party verification from a Rehabilitation Agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work.

If third-party verification or document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

FVWOP Policy:

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

6-IV.D. CHILD CARE EXPENSES

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.”

Policies related to child care expenses are found in Chapter 6 .The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, FVWOP must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of child care.
- The costs are reasonable.

Eligible Child

- To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13.
- FVWOP will verify that the child being cared for (including foster children) is under the age of 13.

Unreimbursed Expense

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

FVWOP Policy:

The child care provider will be asked to certify that, to the best of the provider’s knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

Pursuing an Eligible Activity

FVWOP must verify that the family member(s) has identified as being unable to seek work, pursue education, or be gainfully employed, and are actually pursuing those activities.

FVWOP Policy:

Information to Be Gathered

FVWOP will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), 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

Whenever possible, FVWOP will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases, FVWOP will request verification from the agency of the member's job seeking efforts to date and require the family to submit to FVWOP any reports provided to the other agency.

In the event third-party verification is not available, FVWOP will provide the family with a form on which the family member must record job search efforts. FVWOP will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

FVWOP will ask that the academic or vocational educational institution verify that the person permitted to further his or her education assisted by child care is enrolled and verify information about the timing of classes for which the person is registered.

Gainful Employment

FVWOP will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

Earned Income Limit on Child Care Expense Deduction

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

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

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the

person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

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

FVWOP Policy

When the child care expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA 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.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

FVWOP Policy:

FVWOP will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

FVWOP will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

FVWOP will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Allowable Child Care Activities

The type of care to be provided is determined by the assisted family. The PHA 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].

Reasonableness of Expenses

Only reasonable child care costs can be deducted.

FVWOP Policy

The actual costs the family incurs will be compared with FVWOP's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, FVWOP will request additional documentation, as required, to support a determination that the higher cost is appropriate.

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

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

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the PHA 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.

**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS
FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]**

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
 - “Admitted as a Refugee Pursuant to Section 207”
 - “Section 208” or “Asylum”
 - “Section 243(h)” or “Deportation stayed by Attorney General”
 - “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
 - A final court decision granting asylum (but only if no appeal is taken);
 - A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
 - A court decision granting withholding of deportation; or
 - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

CHAPTER 7

VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

INTRODUCTION

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

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

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

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

PART I: BRIEFINGS AND FAMILY OBLIGATIONS

7-I.A. OVERVIEW

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

7-I.B. BRIEFING [24 CFR 982.301]

FVWOP must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, FVWOP must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973), and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

FVWOP Policy:

- Briefings will be conducted in group meetings.
- Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, FVWOP may approve another adult family member to attend the briefing.
- Families that attend group briefings and still need individual assistance will be referred to an appropriate FVWOP staff person.
- Briefings will be conducted in English. For limited English proficient (LEP) applicants, FVWOP will provide translation services in accordance with FVWOP's LEP plan detailed in Chapter 2.

Notification and Attendance

FVWOP Policy:

- Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.
- If the notice is returned by the post office with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list.
- If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.
- Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. FVWOP will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without FVWOP approval, will be denied assistance.

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

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

- For families eligible under portability, an explanation of portability. FVWOP cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

FVWOP Policy:

When FVWOP-owned units are available for lease, FVWOP will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a FVWOP-owned unit.

Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, and FVWOP's policies on any extensions or suspensions of the term. If FVWOP allows extensions, the packet must explain how the family can request an extension. A description of the method used to calculate the housing assistance payment for a family, including how FVWOP determines the payment standard for a family, how FVWOP determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how FVWOP determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside FVWOP jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease. The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of FVWOP policy on providing information about families to prospective owners.
- FVWOP subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.

- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to FVWOP.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which FVWOP may terminate assistance for a participant family because of family action or failure to act.
- FVWOP informal hearing procedures including when FVWOP is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

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

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

Additional Items to be Included in the Briefing Packet

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

FVWOP Policy:

- FVWOP will provide the following additional materials in the briefing packet:
- Information on how to fill out and file a housing discrimination complaint form.

- The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.
- Information about the protections afforded by the Violence against Women Act of 2013 (VAWA) to victims of domestic violence, dating violence, sexual assault, and stalking (see section 16-IX.C)
- “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19

7-I.C. FAMILY OBLIGATIONS

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

Time Frames for Reporting Changes Required By Family Obligations

FVWOP Policy:

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

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

Family Obligations [24 CFR 982.551]

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

- The family must supply any information that FVWOP or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by FVWOP or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

FVWOP Policy:

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow FVWOP to inspect the unit at reasonable times and after reasonable notice,
- The family must not commit any serious or repeated violations of the lease.

FVWOP Policy:

FVWOP will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through fault of the tenant or guests.

- The family must notify FVWOP and the owner before moving out of the unit or terminating the lease.

FVWOP Policy:

The family must comply with lease requirements regarding written notice to the owner.

The family must provide written notice to FVWOP at the same time the owner is notified.

- The family must promptly give FVWOP a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by FVWOP. The family must promptly notify FVWOP in writing of the birth, adoption, or court-awarded custody of a child. The family must request FVWOP approval to add any other family member as an occupant of the unit.

FVWOP Policy:

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. FVWOP will determine eligibility of the new member in accordance with the policies in this plan.

- The family must promptly notify FVWOP in writing if any family member no longer lives in the unit.

If FVWOP has given approval, a foster child or a live-in aide may reside in the unit. FVWOP has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when FVWOP consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides,

- The family must not sublease the unit, assign the lease, or transfer the unit.

FVWOP Policy:

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by FVWOP to verify that the family is living in the unit or information related to family absence from the unit.

The family must promptly notify FVWOP when the family is absent from the unit.

FVWOP Policy:

Notice is required under this provision only when all family members will be absent from

the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to FVWOP at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless FVWOP has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

7-II.A. OVERVIEW

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

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

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

The following requirements apply when FVWOP determines family unit size:

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

FVWOP Policy:

FVWOP will assign one bedroom for each two persons within the household, except in the following circumstances:

- Persons of the opposite sex (other than spouses, and children under age 3) will be allocated separate bedrooms.
- Live-in aides will be allocated a separate bedroom.
- Single person families will be allocated one bedroom.
- Persons of the same sex that have an age difference of 2 generations will be allocated separate bedrooms.
- Same sex adult household members of different generations will be allocated separate bedrooms.

FVWOP will reference the following chart in determining the appropriate voucher size for a family:

GUIDELINES FOR DETERMINING VOUCHER SIZE			
Voucher Size	Persons in Household		HQS Standards
	Minimum Number	Maximum Number	
0 Bedroom	1	1	0 Bedroom
1 Bedroom	1	2	1 Bedroom
2 Bedrooms	2	4	2 Bedrooms
3 Bedrooms	3	6	3 Bedrooms
4 Bedrooms	4	8	4 Bedrooms
5 Bedrooms	6	10	5 Bedrooms
6 Bedrooms	8	12	6 Bedrooms

7-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

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

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

FVWOP Policy

FVWOP will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

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

7-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list or when a participant family wants to move to another unit, FVWOP issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants (something is missing)

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

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

FVWOP Policy:

Vouchers will be issued to eligible applicants immediately following the mandatory briefing. FVWOP should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, FVWOP must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

FVWOP Policy:

Prior to issuing any vouchers, FVWOP will determine whether it has sufficient funding in accordance with the policies in this plan.

If FVWOP determines that there is insufficient funding after a voucher has been issued, FVWOP may rescind the voucher and place the affected family back on the waiting list.

Voucher Rescission

If, due to budgetary constraints, the FVWOP must rescind vouchers that have already been issued to families, the FVWOP will do so according to the instructions under each of the categories below.

The FVWOP will first rescind vouchers that fall under Category 1. Vouchers in Category 2 will only be rescinded after all vouchers under Category 1 have been rescinded.

Category 1: Vouchers issued to new admissions to the HCV program for which a Request for Tenancy Approval (RTA) and proposed lease have not been submitted to the FVWOP. Vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.

Category 2: Vouchers issued to new admissions to the HCV program for which a Request for Tenancy Approval and proposed lease have been submitted to the FVWOP.

Vouchers will be rescinded in order of the date and time the RTA was submitted to the FVWOP, starting with the most recently submitted requests. Families who have their voucher rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again available, families will be selected from the waiting list in accordance with FVWOP policies described in this plan.

Families who are continuing participants in the HCV program who have vouchers because they are moving will not have their vouchers rescinded.

7-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS Voucher Term [24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

FVWOP Policy:

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless FVWOP grants an extension.

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

FVWOP has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that FVWOP can approve. Discretionary policies related to extension and expiration of search time must be described in FVWOP's administrative plan [24 CFR 982.54].

FVWOP must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of FVWOP's decision to approve or deny an extension. FVWOP's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

FVWOP Policy:

FVWOP will automatically approve one 60-day extension upon written request from the family.

FVWOP may approve an additional 30-day extension only in the following circumstances:

- It is necessary as a reasonable accommodation for a person with disabilities.
- It is necessary due to reasons beyond the family's control, as determined by FVWOP. Following is a list of extenuating circumstances that FVWOP may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
 - Serious illness or death in the family
 - Other family emergency
 - Obstacles due to employment
 - Whether the family has already submitted requests for tenancy approval that were not approved by FVWOP
 - Whether family size or other special requirements make finding a unit difficult
- Any request for an additional extension beyond 120 days must include the reason(s) an additional extension is necessary. FVWOP may require the family to provide documentation to support the request.
- All requests for extensions to the voucher term must be made in writing and submitted to FVWOP prior to the expiration date of the voucher (or extended term of the voucher).

- FVWOP will decide whether to approve or deny an extension request within 10 business days of the date the request is received, and will immediately provide the family written notice of its decision.

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

At its discretion, a FVWOP may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher term. “Suspension” means stopping the clock on a family’s voucher term from the time a family submits the RTA until the time FVWOP approves or denies the request [24 CFR 982.4]. FVWOP’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

FVWOP Policy:

When a Request for Tenancy Approval and proposed lease is received by FVWOP, the term of the voucher will not be suspended while FVWOP processes the request.

Expiration of Voucher Term

Once a family’s housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, FVWOP may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

FVWOP Policy:

If an applicant family’s voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), FVWOP will require the family to reapply for assistance. If an RTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by FVWOP (after the voucher term has expired), the family will be required to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, FVWOP will notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list.

CHAPTER 8

GENERAL LEASING POLICIES

[24 CFR 982.302]

INTRODUCTION

Chapter 8 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for FVWOP to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, FVWOP must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by FVWOP and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by FVWOP, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

8-I.A. TENANT SCREENING

FVWOP has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

FVWOP may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of FVWOP's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before FVWOP approval of the tenancy, FVWOP must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. FVWOP must also inform the owner or manager of their responsibility to comply with VAWA. [Pub.L. 109-162]

FVWOP must provide the owner with the family's current and prior address (as shown in FVWOP records); and the name and address (if known to FVWOP) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

FVWOP is permitted, but not required, to offer the owner other information in FVWOP's possession about the family's tenancy [24 CFR 982.307(b)(2)].

FVWOP's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

FVWOP Policy:

- FVWOP will not screen applicants for family behavior or suitability for tenancy.
- FVWOP will not provide additional screening information to the owner.

8-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request FVWOP to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to FVWOP:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for FVWOP to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless FVWOP has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

FVWOP Policy:

- The RTA must be signed by both the family and the owner.
- The owner may submit the RTA on behalf of the family.
- Completed RTA (including the proposed dwelling lease) must be submitted as hard copies, in-person, or by email.
- The family may not submit, and FVWOP will not process, more than one (1) RTA at a time.
- When the family submits the RTA, FVWOP will review the RTA for completeness.
 - If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, FVWOP will notify the family and the owner of the deficiencies in writing.
 - Missing information and/or missing documents will only be accepted as hard copies, in-person, or by email. FVWOP will not accept missing information over the phone, and will require the family to re-submit the request.

When the family submits the RTA and proposed lease, FVWOP will also review the terms of the RTA for consistency with the terms of the proposed lease.

- If the terms of the RTA are not consistent with the terms of the proposed lease, FVWOP will notify the family and the owner of the discrepancies.
- Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, or by email. FVWOP will not accept corrections by phone or fax.

Because of the time sensitive nature of the tenancy approval process, FVWOP will attempt to communicate with the owner and family by phone, fax, or email. FVWOP will use mail when the parties cannot be reached by phone or email.

8-I.C. OWNER PARTICIPATION

FVWOP does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where FVWOP may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

8-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in FVWOP's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

FVWOP may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; and a unit occupied by its owner or by a person with any interest in the unit.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, FVWOP to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. The regulations do require FVWOP to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

1. Public or Indian housing assistance;
2. Other Section 8 assistance (including other tenant-based assistance);
3. Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
4. Section 101 rent supplements;
5. Section 236 rental assistance payments;
6. Tenant-based assistance under the HOME Program;
7. Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);

8. Any local or State rent subsidy;
9. Section 202 supportive housing for the elderly;
10. Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or

Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family.

Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises.

Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income.

8-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; FVWOP is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by FVWOP. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

FVWOP Policy:

FVWOP does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit FVWOP to approve a shorter initial lease term if certain conditions are met.

FVWOP Policy:

FVWOP will approve an initial lease term of less than one (1) year, when the tenancy occurs after the first of the month (i.e. lease beginning on September 15th would end on August 31st of the following year). (Remove) Prevailing practice of FVWOP is to end the lease at the end of the month to coincide with the effective date of the annual recertification. However, the initial lease term must be at least 11 months.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309]. Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

FVWOP may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. FVWOP may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if FVWOP chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

FVWOP Policy:

FVWOP will allow the owner to collect any security deposit amount the owner determines is appropriate. Therefore, no modifications to the HAP contract will be necessary.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus FVWOP's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

FVWOP Policy:

FVWOP permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

FVWOP Review of Lease

FVWOP will review the dwelling lease for compliance with all applicable requirements.

FVWOP Policy:

If the dwelling lease is incomplete or incorrect, FVWOP will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax. FVWOP will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, FVWOP will attempt to communicate with the owner and family by phone, fax, or email. FVWOP will use mail when the parties cannot be reached by phone, fax, or email.

FVWOP is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to disapprove of the tenancy if FVWOP determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

FVWOP Policy:

FVWOP will not review the owner's lease for compliance with state/local law.

8-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, FVWOP must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, FVWOP must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include:

- ensuring that the unit is eligible;
- the unit has been inspected by FVWOP and meets the Housing Quality Standards (HQS);
- the lease offered by the owner is approvable and includes the required Tenancy Addendum;
- the rent to be charged by the owner for the unit must be reasonable;
- where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)];
- the owner is an eligible owner, not disapproved by FVWOP, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

FVWOP Policy:

FVWOP will complete its determination within 10 business days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with FVWOP, FVWOP will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax. FVWOP will not accept corrections over the phone.

If FVWOP determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. FVWOP will instruct the owner and family of the steps that are necessary to approve the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), FVWOP will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

8-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between FVWOP and the owner of the dwelling unit occupied by a housing choice voucher assisted family. Under the HAP contract, FVWOP agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP contract format is prescribed by HUD.

If FVWOP has given approval for the family of the assisted tenancy, the owner and FVWOP execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)]. FVWOP is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

FVWOP must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than 60 calendar days from the beginning of the lease term.

FVWOP may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, FVWOP will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60 day period is void, and FVWOP may not pay any housing assistance payment to the owner.

FVWOP Policy:

Owners who have not previously participated in the HCV program must attend a meeting with FVWOP in which the terms of the Tenancy Addendum and the HAP contract will be explained. FVWOP may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to FVWOP. FVWOP will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and FVWOP will execute the HAP contract. FVWOP will not execute the HAP contract until the owner has submitted IRS form W-9. FVWOP will ensure that the owner receives a copy of the executed HAP contract.

8-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give FVWOP a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, FVWOP approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless FVWOP has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify FVWOP of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. FVWOP will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

FVWOP Policy:

- Where the owner is requesting a rent increase, FVWOP will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing within 30 days.
- Rent increases will go into effect on the first of the month following the 60 day period after the owner notifies FVWOP of the rent change or on the date specified by the owner, whichever is later.

CHAPTER 9

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

HQS are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. Effective July 1, 2014, PHAs may establish a policy for performing unit inspections biennially rather than annually. This policy could apply to some or all assisted units. PHAs still have the option to inspect every unit annually. See Section 8-II.G for further details.

The PHA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the PHA's required standards and to assure consistency in the PHA's program. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

This Chapter describes the PHA's procedures for performing HQS and other types of inspections, and PHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. This chapter will also explain HUD and PHA requirements related to 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 PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA 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

9-I.A. GENERAL HUD REQUIREMENTS

HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit.

However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

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

FVWOP Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the PHA for review.

9-I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Thermal Environment [HCV GB p.10-7]

The FVWOP must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

FVWOP Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

FVWOP Policy

As permitted by HUD, the PHA has adopted the following specific requirements that elaborate on HUD standards.

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.

Windows must be weather-stripped as needed to ensure a weather-tight seal.

Window screens must be in good condition (applies only if screens are present).

Doors

All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.

All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.

All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

All sinks must have functioning stoppers.

Toilets

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

9-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of PHA notification.

FVWOP Policy

The following are considered life-threatening conditions:

Any condition that jeopardizes the security of the unit

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LP gas or fuel oil leaks

Any electrical problem or condition that could result in shock or fire

Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.

Utilities not in service, including no running hot water

Conditions that present the imminent possibility of injury

Obstacles that prevent safe entrance or exit from the unit

Absence of a functioning toilet in the unit

Inoperable smoke detectors

If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by the PHA, the PHA will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

9-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear those results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

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

9-I.E. 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 PHA 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 PHA, 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 PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

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

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]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

9. I.A. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The PHA will not promote any additional acceptability criterion which is likely to adversely affect the health or safety of participant families, or severely restrict housing choices.

All utilities must be in service prior to the effective date of the HAP contract. If the utilities are not in service at the time of inspection, the Inspector will notify the tenant or owner (whomever is responsible for the utilities according to the RFTA) to have the utilities turned on. The Inspector will schedule a re-inspection.

If the tenant is responsible for supplying the stove and/or the refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has passed all other HQS. The PHA will conduct a re-inspection.

There are four types of inspections the PHA will perform:

1. *Initial Inspections*. The PHA 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 on or before the effective date of the HAP Contract.
2. *Annual/Biennial Inspections*. HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
3. *Special Inspections*. A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
4. *Quality Control Inspections*. HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

Inspection of PHA-Owned Units [24 CFR 982.352(b)]

The PHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

Inspection Costs

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

Notice and Scheduling

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

FVWOP Policy

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

Owner and Family Inspection Attendance

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

FVWOP Policy

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

At initial inspection of a vacant unit, the PHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

9. I.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)] Timely Initial HQS Inspection

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA). For PHAs with 1,250 or more budgeted units, to the extent practicable such inspection and determination must be completed within 15 days. The 15-day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

FVWOP Policy

FVWOP will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 days after the family and the owner have submitted a request for approval of tenancy. The same 15 day clock will be suspended during any period when the unit is not available for inspection.

For file audit purposes, the PHA will note in each tenant file, the date on which the unit first became available for inspection according to information obtained from the RTA. The Initial Inspection will be conducted to:

- Determine if the unit and property meet the HQS defined in this Plan.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the family and owner will be advised to notify the PHA once repairs are completed.

On an initial inspection, the owner will be given up to 15 days to correct the items noted as Fail, at the Inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed up to 1 re-inspections for repair work to be completed.

If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, the family must select another unit.

Following a failed inspection, the family may submit a new Request for Tenancy Approval after the owner has made repairs, if they are unable to locate another suitable unit.

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.

FVWOP Policy

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

Appliances

FVWOP Policy

If the family is responsible for supplying the stove and/or refrigerator, the FVWOP 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 FVWOP. The FVWOP 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.

9. I.C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

The PHA conducts an inspection in accordance with Housing Quality Standards at least annually, 60 days prior to the last annual inspection, so that the inspections are conducted at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the tenant is responsible.

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.51 (d)]

- Inspections will be conducted on business days only.
- Reasonable hours to conduct an inspection are between 8:30 a.m. and 5:00 p.m.

FVWOP Policy

The PHA will notify the family in writing at least 10 days prior to the inspection.

Inspection: The family is notified of the date and time of the inspection appointment by mail. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within 10 calendar days.

If the family does not contact the PHA to reschedule the inspection, or if the family misses 2 inspection appointments, the PHA will consider the family to have violated a Family Obligations and their assistance will be terminated in accordance with the termination procedures in the Plan.

Re-inspection: The family and owner are provided a notice of the inspection appointment by mail. If the family is not at home for the re-inspection appointment, a card will be left at the unit and another appointment is automatically scheduled. The appointment letter contains a warning of abatement (in the case of owner responsibility), and a notice of the owner's responsibility to notify the family. An inspection will be completed of the exterior of the unit.

The family is also notified that it is a Family Obligation to allow the PHA to inspect the unit. If the family was responsible for a breach of HQS identified in the "Denial or Termination of Assistance" Chapter 15 of this Administrative Plan, they will be advised of their responsibility to correct.

Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. (See Emergency Repair Items section.)

- For non-emergency items, repairs must be made within 30 days.
- For major repairs, the Housing Inspector may approve an extension beyond 30 days.

9. I.D. SPECIAL [24 CFR 982.405(c)]

The PHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit. If the reported condition is not life-threatening (i.e., the PHA would require the owner to make the repair within no more than 30 calendar days), then the PHA must inspect the unit within 15 days of when the PHA received the complaint.

FVWOP Policy

FVWOP may also conduct a special inspection based on information from third parties such as neighbors or public officials.

FVWOP will inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the annual inspection date is within 90 days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

9. I.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

HUD requires a PHA 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.

Quality Control inspections will be performed by the Executive Director or a member of the staff qualified to complete HQS inspections on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.

FVWOP Policy:

- FVWOP will conduct QC inspections on 5% of completed inspections for the fiscal year.

INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT

Notification of Corrective Actions

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

FVWOP Policy

When life-threatening conditions are identified, the PHA will immediately notify both parties by telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the PHA's notice.

When failures that are not life-threatening are identified, the PHA will send the owner and the family a written notification of the inspection results within 5 business 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. Generally not more than 30 days will be allowed for the correction.

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

9. I.F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)]

The PHA adheres to the acceptability criteria in the program regulations and HUD Inspection Book.

Modifications

Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.

Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. PHA will allow execution of the HAP contract if the unit meets all requirements and the modifications do not affect the livability of the unit.

9. I.G. EMERGENCY REPAIR ITEMS [24 CFR 982.401(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the Inspector:

- Lack of security for the unit
- Waterlogged ceiling in imminent danger of falling
- Major plumbing leaks or flooding
- Natural gas leak or fumes
- Electrical problem which could result in shock or fire
- No heat when outside temperature is below 32 degrees Fahrenheit and temperature inside unit is below 60 degrees Fahrenheit.
- Utilities not in service (electricity, water and gas if gas supplied heat in winter)
- No running hot water
- Obstacle which prevents tenant's entrance or exit
- Lack of functioning toilet
- Inoperable smoke detector

The PHA may give a short extension (not more than 48 additional hours) whenever the responsible party cannot be notified or it is impossible to affect the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the PHA.

If the emergency repair item(s) are not corrected in the time period required by the PHA, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the PHA, and it is an HQS breach which is a family obligation, the PHA will terminate the assistance to the family.

Smoke Detectors

Inoperable smoke detectors are a serious health threat and will be treated by the PHA as an emergency (24 hour) fail item.

If the smoke detector is not operating properly the PHA will contact the owner by phone and request the owner to repair the smoke detector within 24 hours. The PHA will re-inspect the unit the following day.

If the PHA 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 PHA will re-inspect the unit the following day.

The PHA will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. Warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS.

9. I.H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS) [24 CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the PHA, the assistance payment to the owner will be abated.

Abatement

1. A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for 30 calendar days, depending on the nature of the repair(s) needed.
2. The PHA will inspect abated units within 5 working days of the owner's notification that the work has been completed.
3. If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.
4. The family and the owner will be notified of the re-inspection date.
5. No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS.
6. The notice of abatement states that the tenant is not responsible for the PHA's portion of rent that is abated.

Reduction of Payments

The PHA will grant an extension in lieu of abatement in the following cases:

1. The owner has a good history of HQS compliance.
2. The failed items are minor in nature.
3. There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
4. The owner makes a good faith effort to make the repairs.
5. The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.
6. The repairs must be delayed due to climate conditions.

The extension will be made for a period of time not to exceed 60 calendar days. At the end of that time, at the PHA's discretion, if the work is not completed or substantially completed, the PHA will begin the abatement.

Termination of Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination may be rescinded by the PHA if the tenant chooses to remain in the unit. Only one Housing Quality Standards inspection will be conducted after the termination notice is issued.

9. I.H. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

1. Tenant-paid utilities not in service : If gas supplied heat in the unit, the gas service should be on no later than October 20th of the year.
2. Failure to provide or maintain family-supplied appliances
3. 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 be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

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

4. The owner is responsible for all other HQS violations.
5. The owner is responsible for vermin infestation even if caused by the family's living habits.
6. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for a serious or repeated violation of the lease. The PHA may terminate the family's assistance on that basis.
7. The inspector will make a determination of owner or family responsibility during the inspection.
8. The owner or tenant may appeal this determination to a mediator within 10 working days of the inspection.
9. If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

9. I.I. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the PHA will require the family to make any repair(s) or corrections within 24 hours for an emergency and for a non-emergency within 30 calendar days. If the repair(s) or correction(s) are not made in this time period, the PHA will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by Housing Inspector/Executive Director. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

PART III: RENT REASONABLENESS [24 CFR 982.507]

9-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until the PHA 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.

PHA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD, and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

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

Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA 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.

FVWOP Policy

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 PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the PHA will consider unit size and length of tenancy in the other units.

FVWOP will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after the PHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 5 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 PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

FVWOP Policy

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

LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

9-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA 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.

Note: Notice PIH 2011-46, issued August 17, 2011, provides further guidance on the issue of what constitutes an assisted unit.

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 PHA 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 PHA information regarding rents charged for other units on the premises.

9-III.D. PHA RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

FVWOP Policy

The PHA will collect and maintain data on market rents in the PHA'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 12 months old will be eliminated from the database.

How Rents Are Determined

FVWOP Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The FVWOP 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 FVWOP 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 \times 11 \text{ months} = 5500/12 \text{ months} = \text{actual monthly rent of } \488 .

The FVWOP will notify the owner of the rent the PHA 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 PHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the PHA's request for information or the owner's request to submit information.

EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Sanitary Facilities

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

Food Preparation and Refuse Disposal

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons.

Thermal Environment

The unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

Illumination and Electricity

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are

thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one operable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

Water Supply

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

Lead-Based Paint

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance ask each family to report deteriorated paint.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

Access

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the

occupants.

Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

Smoke Detectors

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

<p style="text-align: center;">EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY</p>
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Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

- (6) *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- (7) *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present they must be in good condition.
- (8) *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- (9) *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

CHAPTER 10
DENIAL OR TERMINATION OF ASSISTANCE
[24 CFR 982.552, 982.553]

HUD regulations specify the reasons for which FVWOP can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by FVWOP based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that FVWOP may consider in lieu of termination, the criteria FVWOP must use when deciding what action to take, and the steps FVWOP must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

10. I.A. OVERVIEW

HUD requires FVWOP to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits FVWOP to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying FVWOP.

10. I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of FVWOP subsidy goes down. If the amount of HCV assistance provided by FVWOP drops to zero and remains at zero for 180 consecutive calendar days, the family's assistance terminates automatically.

FVWOP Policy:

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify FVWOP of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

Should the family fail to notify FVWOP, the assistance will terminate and FVWOP will not re-issue a voucher to the family, or process a re-examination.

10. I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that FVWOP terminate the family's assistance at any time.

FVWOP Policy:

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family's assistance, FVWOP will follow the notice requirements in this section.

10. I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires FVWOP to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), Pub.L. 109-162]

FVWOP must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

FVWOP Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory.

However, FVWOP will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 15 and other factors as described in Sections 15. Upon consideration of such alternatives and factors, FVWOP may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to:

- nonpayment of rent,
- disturbance of neighbors,
- destruction of property, or living or housekeeping habits that cause damage to the unit or premises; and
- criminal activity.

Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

FVWOP must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

FVWOP must terminate assistance if:

1. a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
2. a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or
3. a family member, as determined by FVWOP, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Provide Social Security Documentation [24 CFR 5.218(c)]

FVWOP must terminate assistance if a participant family fails to provide the documentation or certification required for any family member who obtains a social security number, joins the family, or reaches 6 years of age.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

FVWOP must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

10. I.E. FAILURE OF STUDENTS TO MEET ONGOING ELIGIBILITY REQUIREMENTS [24 CFR 982.552(B)(5) AND FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November

30, 2005, FVWOP must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and FVWOP policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

10. I.F. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(D)]

HUD requires FVWOP to establish policies that permit FVWOP to terminate assistance if FVWOP determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

FVWOP Policy:

FVWOP will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

FVWOP will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or individuals in the community.

FVWOP will also terminate a family's assistance when drug paraphernalia is found on one's person, or in the assisted residence.

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

FVWOP will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, FVWOP will consider alternatives as described in Section 15 and other factors described in Sections 15. Upon consideration of such alternatives and factors, FVWOP may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

FVWOP Policy:

FVWOP will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

FVWOP will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, FVWOP will consider alternatives as described in Section 15. Upon consideration of such alternatives and factors, FVWOP may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized/Reasons for Termination of Assistance [24 CFR 982.552(c), Pub.L. 109-162]

HUD permits FVWOP to terminate assistance under a number of other circumstances. It is left to the discretion of FVWOP whether such circumstances in general warrant consideration for the termination of assistance.

The Violence Against Women Reauthorization Act of 2005 explicitly prohibits FVWOP from considering incidents or actual threatened domestic violence, dating violence, or stalking as reasons for terminating the assistance of a victim of such violence.

FVWOP Policy:

FVWOP **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.

FVWOP **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Exhibit 15-1 for a listing of family obligations and related FVWOP policies.
- Any family member has been evicted from federally-assisted housing in the last five years.
- If FVWOP has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any FVWOP in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs.
- The family has not reimbursed FVWOP for amounts FVWOP paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with FVWOP.
- A family member has engaged in or threatened violent or abusive behavior toward FVWOP personnel.
- A family member has engaged in any criminal activity that threatened the health, safety, or right to peaceful enjoyment of the premises by other residents or individuals within the community.
- Abusive or violent behavior towards FVWOP 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.

FVWOP will review the background search, police reports and media articles concerning crime-related problems involving Housing Choice Voucher Program participants.

When adverse information relating to criminal activity is discovered, FVWOP will schedule an interview to confirm the information and provide a copy of the report to the participant prior to rendering a determination to terminate assistance.

In making its decision to terminate assistance, FVWOP will consider alternatives as described in Section 15. Upon consideration of such alternatives and factors, FVWOP may, on a case-by-case basis, choose not to terminate assistance Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. FVWOP must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

FVWOP Policy:

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 15.

Insufficient Funding [24 CFR 982.454]

FVWOP may terminate HAP contracts if FVWOP determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

FVWOP Policy:

FVWOP will determine whether there is sufficient funding to pay for currently assisted families according to the policies in this plan. FVWOP determines there is a shortage of funding, prior to terminating any HAP contracts, FVWOP will determine if any other actions can be taken to reduce program costs.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, FVWOP will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, FVWOP will inform the local HUD field office. FVWOP will terminate the minimum number needed in order to reduce HAP costs to a level within FVWOP's annual budget authority.

If FVWOP must terminate HAP contracts due to insufficient funding, FVWOP will do so in accordance with the following criteria and instructions:

Determination of Insufficient Funding

Prior to issuing vouchers, FVWOP will determine whether it has sufficient funding in accordance with policies in this plan 24 CFR Part 982 and Notice PIK 2005-9, and 2005 Appropriation Act Conference Report language allowing Public Housing Authorities the flexibility to take action in reducing costs in the Housing Choice Voucher Program to ensure the program's solvency.

FVWOP will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing FVWOP's annual budget authority to the annual total Housing Assistance Payment (HAP) needs-on-a monthly basis.

The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year-to-date. To that figure, FVWOP will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP.

The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if FVWOP cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, FVWOP will be considered to have insufficient funding. **Please note that elderly and disabled program participants will be excluded from the revocation process.**

If FVWOP determines that there is insufficient funding after a voucher has been issued due to budgetary constraints and if all other strategies are implemented and determined not to settle a budgetary deficit, the following steps will take affect:

- The selection of vouchers to terminate will be made by an unbiased random selection of families. The MIS Department will assist with creating a program that will identify the number of vouchers to address the utilization problem.
- Families will be entitled to an informal hearing in accordance with 24 CFR 982.554. The revocation letter will specify that the family can request an informal hearing within ten days of receipt of the letter. Special provisions will be established to ensure timely scheduling of the informal hearing.
- Families will be offered an opportunity to receive priority placement on FVWOP's Public Housing and Affordable Housing Waiting Lists. Any available units will be made available to the interested applicant.
- Families will receive a preference on the Housing Choice Voucher Waiting List.
- Families will receive counseling and referral assistance from FVWOP's Department of Resident Services. As appropriate, FVWOP will work with Franklin Vance Warren counties' Department of Social Services to meet the needs of the families.

PART II: APPROACH TO TERMINATION OF ASSISTANCE OVERVIEW

FVWOP is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give FVWOP the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions FVWOP may choose to take when it has discretion, and outlines the criteria FVWOP will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

10. II.A. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which FVWOP terminates assistance depends upon individual circumstances. HUD permits FVWOP to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

10. II.B. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, FVWOP may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

FVWOP Policy:

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon FVWOP request.

Repayment of Family Debts

FVWOP Policy:

If a family owes amounts to FVWOP, as a condition of continued assistance, FVWOP will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from FVWOP of the amount owed.

10. II.C. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits FVWOP to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

FVWOP Policy:

FVWOP will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

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

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

FVWOP is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

FVWOP Policy:

FVWOP will consider the following factors when making its decision to terminate assistance:

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

- FVWOP will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

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

If the family includes a person with disabilities, FVWOP's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

FVWOP Policy:

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, FVWOP will determine whether the behavior is related to the disability.

If so, upon the family's request, FVWOP will determine whether alternative measures are appropriate as a reasonable accommodation. FVWOP will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

10. II.D. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [42 USC 1437(d)] [42 USC 1437(f)]

The Violence Against Women Reauthorization Act of 2005 (VAWA) provides that "criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking."

VAWA also gives FVWOP the authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

VAWA does not limit the authority of FVWOP to terminate the assistance of any participant if FVWOP "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant is not evicted or terminated from assistance."

FVWOP Policy:

In determining whether a participant who is a victim of domestic violence, dating violence, or stalking is an actual imminent threat to other tenants or those employed at or providing service to a property, FVWOP will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, or stalking;
- Whether the threat is a physical danger beyond a speculative threat;
- Whether the threat is likely to happen within a short period of time;
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location;

If the tenant wishes to contest FVWOP's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the informal hearing.

Victim Documentation

FVWOP Policy:

When a participant family is facing assistance termination because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of domestic violence, dating violence, or stalking, FVWOP will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

The documentation must consist of a completed and signed form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking. In lieu of the certification form, FVWOP will accept either of the following forms of documentation:

- A police or court record documenting the actual or threatened abuse.
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional.
- The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

FVWOP reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of FVWOP's written request or must request an extension within that time frame. FVWOP may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any FVWOP-approved extension, FVWOP will review its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any FVWOP-approved extension, FVWOP will proceed with termination of the family's assistance in accordance with applicable law, program regulations, and the policies in this plan.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives FVWOP the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others...without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member.

Further, this authority supersedes any local, state, or other federal law to the contrary. However, if FVWOP chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [42 USC 1437(c)(9)(C)(2)].

This means that FVWOP must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

FVWOP Policy:

FVWOP will terminate assistance to a family member if FVWOP determines that the family member has committed criminal acts of physical violence against other family members. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, FVWOP will consider all credible evidence, including, but not limited to:

- a signed certification (form HUD-50066); or

- other documentation of abuse submitted to FVWOP by the victim in accordance with this section.

FVWOP will also consider the factors in section 15. Upon such consideration, FVWOP may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If FVWOP does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

FVWOP Confidentiality Requirements

All information provided to FVWOP 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 data base 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.

FVWOP Policy:

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, FVWOP will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

10. II.E. TERMINATION NOTICE [HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, FVWOP must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated.
- The effective date of the termination.
- The family's right to an informal hearing as described in this plan.

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

FVWOP Policy:

When termination is initiated by FVWOP, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing FVWOP, 30 days' notice will not be given. In these cases, the notice to terminate will be sent at the time FVWOP learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to FVWOP. FVWOP will then send a confirmation notice to the family and the owner within 10 business days of the family's request, but no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

FVWOP must terminate assistance if:

- 1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status;
- 2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or
- 3) FVWOP determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with FVWOP either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

FVWOP Policy:

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

10. ILF. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

PART III: TERMINATION OF TENANCY BY THE OWNER

10. III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; FVWOP is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

10-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant.

This includes failure to pay rent or other amounts due under the lease. However, FVWOP's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the tenant or an immediate member of the tenant's family is the victim or threatened victim of the domestic violence, dating violence, or stalking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or

- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

10-III.C. EVICTION [24 CFR 982.310(E) AND (F) AND FORM HUD-52641-A, TENANCY ADDENDUM]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give FVWOP a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give FVWOP a copy of any eviction notice.

FVWOP Policy:

If the eviction action is finalized in court, the owner must provide FVWOP with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

10-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), Pub.L. 109-162]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;

- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661).

For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, or stalking is limited by the Violence Against Women Reauthorization Act of 2005 (VAWA).

10-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if FVWOP has no other grounds for termination of assistance, FVWOP may issue a new voucher so that the family can move with continued assistance

EXHIBIT 15-1: STATEMENT OF FAMILY OBLIGATIONS

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

- The family must supply any information that FVWOP or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by FVWOP or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.

- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

FVWOP Policy:

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow FVWOP to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 10 of this plan.
- The family must not commit any serious or repeated violation of the lease.

FVWOP Policy:

FVWOP will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

- The family must notify FVWOP and the owner before moving out of the unit or terminating the lease.

FVWOP Policy

The family must comply with lease requirements regarding written notice to the owner.

The family must provide written notice to FVWOP at the same time the owner is notified.

- The family must promptly give FVWOP a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by FVWOP. The family must promptly notify FVWOP in writing of the birth, adoption, or court-awarded custody of a child. The family must request FVWOP approval to add any other family member as an occupant of the unit.

FVWOP Policy:

The request to add a family member or live-in aide must be submitted in writing and approved prior to the person moving into the unit. FVWOP will determine eligibility of the new member in accordance with the policies in this plan.

- The family must promptly notify FVWOP in writing if any family member no longer lives in the unit.
- If FVWOP has given approval, a foster child or a live-in aide may reside in the unit. FVWOP has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when FVWOP consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides (something is missing)
- The family must not sublease the unit, assign the lease, or transfer the unit.

FVWOP Policy:

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by FVWOP to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify FVWOP when the family is absent from the unit.

FVWOP Policy:

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to FVWOP at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

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

CHAPTER 11 OWNERS

[24 CFR 982.54, 982.306, 982.453]

INTRODUCTION

Owners play a central role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in FVWOP’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between FVWOP and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including FVWOP policies in key areas, owners will need to refer to several other chapters in this plan.

PART I. OWNERS IN THE HCV PROGRAM

11. I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6]

Recruitment

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in FVWOP’s jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for FVWOP to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in FVWOP’s jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, FVWOP must identify and recruit new owners to participate in the program.

FVWOP Policy

FVWOP will conduct owner outreach to ensure that owners are familiar with the program and its advantages. FVWOP will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers;
- Contacting property owners and managers by phone or in-person;
- Holding owner recruitment/information meetings at least once a year;
- Participating in community-based organizations comprised of private property and apartment owners and managers; and
- Developing working relationships with owners and real estate brokers associations.

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, FVWOP must also provide the kind of customer service that will encourage participating owners to remain active in the program.

FVWOP Policy:

All FVWOP activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

FVWOP will provide owners with a handbook that explains the program, including HUD and FVWOP policies and procedures, in easy-to-understand language.

FVWOP will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated FVWOP contact person.
- Coordinating inspection and leasing activities between FVWOP, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process, and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

11. I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires FVWOP to aid families in their housing search by providing the family with a list of landlords or other parties known to FVWOP who may be willing to lease a unit to the family, or to help the family find a unit. Although FVWOP cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to FVWOP their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

FVWOP Policy:

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify FVWOP. FVWOP will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. FVWOP has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to FVWOP, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A).

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the specified unit.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. FVWOP will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the unit continues to meet HQS requirements.

FVWOP must determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. .

At initial lease-up of a unit, FVWOP must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease.

FVWOP and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD.

11. I.C. OWNER RESPONSIBILITIES [24 CFR 982.452, PUB.L. 109-162]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease;
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit;
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance;
- Complying with equal opportunity requirements;
- Preparing and furnishing to FVWOP information required under the HAP contract;
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the housing assistance payment from FVWOP), and any charges for unit damage by the family;
- Enforcing tenant obligations under the dwelling lease;
- Paying for utilities and services (unless paid by the family under the lease);
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Comply with the Violence Against Women Reauthorization Act of 2005 (VAWA) when screening and terminating tenants.

11. I.D. OWNER QUALIFICATIONS

FVWOP does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where FVWOP may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues.

No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

FVWOP must not approve the assisted tenancy if FVWOP has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct FVWOP not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

FVWOP must not approve an RTA if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. FVWOP may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19]

FVWOP must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of FVWOP (except a participant commissioner)
- Any employee of FVWOP, or any contractor, subcontractor or agent of FVWOP, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. FVWOP must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by FVWOP must include [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, FVWOP, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by FVWOP or assistance under the HCV program for an eligible FVWOP employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of FVWOP, description of the nature of the investment, including disclosure/divestiture plans.

Where FVWOP has requested a conflict of interest waiver, FVWOP may not execute the HAP contract until HUD has made a decision on the waiver request.

FVWOP Policy:

In considering whether to request a conflict of interest waiver from HUD, FVWOP will consider factors the reasons for waiving the requirement; consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]

HUD regulations permit FVWOP, at FVWOP's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If FVWOP disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

FVWOP Policy:

FVWOP will refuse to approve a request for tenancy if FVWOP becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of FVWOP, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

In considering whether to disapprove owners for any of the discretionary reasons listed above, FVWOP will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others.

Upon consideration of such circumstances, FVWOP may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents FVWOP policy on legal ownership of a dwelling unit to be assisted under the HCV program.

FVWOP Policy FVWOP will only enter into a contractual relationship with the legal owner or managing agent of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

The agent must supply a copy of the management contract or a notarized affidavit permitting the agent to act on behalf of the owner.

Owners are required to submit the following documentation:

- W-9
- Owner/Agent Data Form
- Property Owner Certification
- Program Integrity Questionnaire
- Lead-Based Paint Disclosure
-
- Direct Deposit Application
- Rent Roll (Properties that contain 4 or more units)
- Unit Specifications List

Proof of Ownership

- Photo Identification
- Certified Copy of Deed
- HUD 1 Statement
- Tax Bill (taxes must be paid up to date)
- Mortgage Statement

Mandatory Direct Deposit

FVWOP Policy:

This policy is intended to maximize the utilization of electronic payments and to minimize the number of paper checks issued by FVWOP, thereby obtaining efficiencies for the agency and providing vendors with a reliable and efficient manner of receiving HAP checks.

This policy applies to all business entities subject to the terms and conditions of a Housing Assistance Payment contract, to include existing and new vendors migrating to

the Housing Choice Voucher program. It also pertains to all business entities that may continue to operate under the Housing Voucher and Certificate programs administered by FVWOP.

It is the policy of FVWOP that all participating housing choice voucher program owners, property managers and agents paid by paper check be required to use the direct deposit

feature to receive housing assistance payments. In accordance with federal requirements regarding direct deposit, the owner may select the financial institution of his/her choice to accommodate the receipt of direct deposit payments.

All owners currently receiving payment by direct deposit shall continue to be enrolled in the direct deposit program. All owners who are receiving housing assistance payments by paper check shall be required to enroll in the direct deposit program by completing the appropriate enrollment form. FVWOP will establish a deadline for enrolling.

As a condition of participation, all new owners, agents and property managers shall be required to enroll in the direct deposit program. The enrollment application must accompany the IRS W-9 and proof of legal ownership documentation. FVWOP will not execute or enter into a HAP contract with any owner who fails to complete the appropriate direct deposit enrollment form and who is not granted an extension as provided for herein. FVWOP will provide a 30-day notice of HAP contract termination to current owners refusing to participate in direct deposit without an approved exemption.

Any owner may be exempted from participating in the direct deposit program if he/she does not have an account at an eligible financial institution and further provides evidence that he/she cannot obtain an account at an eligible financial institution.

In his/her role of prescribing the manner in which FVWOP make disbursements, the Executive Director or his/her designee has exclusive authority to grant an exemption from the direct deposit requirement. A personal exemption may only be granted for the reason stated above (i.e. unable to acquire an account at a financial institution) or other specific situation that the ED may deem to be an extreme hardship. An owner desiring to request an exemption from direct deposit requirement shall do so by completing a "Direct Deposit Exemption Request Form".

For those owners who are granted an exemption, the ED may secure and offer other payment methods as options, other than paper check, when such options may become available.

11-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with FVWOP.

The owner must cooperate with FVWOP and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with FVWOP.

PART II. HAP CONTRACTS

11. II.A. OVERVIEW

The HAP contract represents a written agreement between FVWOP and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under

the program, as well as FVWOP's obligations. Under the HAP contract, FVWOP agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space.

If FVWOP has given approval for the family of the assisted tenancy, the owner and FVWOP execute the HAP contract.

11. II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities and appliances to be supplied by owner and tenant, signatures of FVWOP and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants.

In addition, PHAs have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by FVWOP is deemed received by the owner (e.g., upon mailing by FVWOP or actual receipt by the owner).

FVWOP Policy:

FVWOP has not adopted a policy that defines when the housing assistance payment by FVWOP is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances

- Rent to Owner: Reasonable Rent
- FVWOP Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- FVWOP and HUD Access to Premises and Owner's Records
- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by FVWOP. The owner must sign the HUD Tenancy Addendum with the prospective tenant, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

11. II.C. HAP CONTRACT PAYMENTS

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, FVWOP must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in this plan. HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by FVWOP is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus FVWOP HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment, and FVWOP is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

If the owner receives any excess HAP from FVWOP, the excess amount must be returned immediately. If FVWOP determines that the owner is not entitled to all or a portion of the HAP, FVWOP may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from FVWOP, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 CFR 982.451(a)(5)]

FVWOP is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for penalties if FVWOP fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

FVWOP is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond FVWOP's control. In addition, late payment penalties are not required if FVWOP intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

FVWOP Policy

Owner Eligibility for HAP Late Payment Fee(s): FVWOP must promptly pay an owner the HAP at the beginning of each month, meaning no later than the fifth (5) calendar day of

each month ("Due Date"). The HAP shall be deemed received by the owner on the date that the payment is mailed by FVWOP. Commencing after the first two (2) calendar months of the HAP Contract term, if the owner has not received the HAP by 11:59 p.m. of the due date, FVWOP shall pay the owner a late payment penalty/fee, as provided in Section 4 (B) below, if all of the following requirements are met, as determined by FVWOP in its absolute and sole discretion.:

1. The late penalties are in accordance with both generally accepted practices in the Raleigh-Durham housing market and North Carolina law governing penalties for late payment of rent by a tenant.

2. It is the owner's practice to assess rental late fee charges against the tenant for late payment of the tenant's portion of the rent to the owner.
3. The owner assesses rental fee charges against the tenant for late payment of the tenant's portion of the rent to the owner.
4. HUD has not denied or delayed the HAP to the owner as a remedy for the owner's breach of the HAP contract (including any of the following FVWOP remedies: recovery of overpayments, termination, suspension, abatement, or reduction of HAP, and termination of the HAP contract).

Amount of HAP Late Payment Fee:

Consistent with both generally accepted practices in the Raleigh-Durham Metropolitan area of, North Carolina, housing market and North Carolina laws governing penalties for late payment of rent by a tenant (NGGS 42-46), FVWOP shall pay the owner a HAP late payment fee equal to the greater of fifteen dollars (\$15.00) or five percent (5%) of the then due HAP.

A HAP late payment fee shall be non-cumulative and imposed only one time for each late HAP. The owner shall not deduct a late HAP from a subsequent HAP so as to cause the subsequent HAP to be in default. FVWOP shall amend this subsection, as needed and appropriate, to reflect changes in both generally accepted practices in the Franklin-Vance-Warren, North Carolina housing market and North Carolina law. FVWOP shall pay to the owner the HAP late payment fee no later than the subsequent due date.

HAP Late Payment Fee Source of Funds: FVWOP shall only utilize Section 8 administrative fee income or Section 8 administrative fee reserves to pay HAP late payment fees as provided in this section. FVWOP shall not use other Section 8 program receipts to pay HAP late payment fees.

Termination of HAP Payments [24 CFR 982.311(b)]

FVWOP must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, FVWOP must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

FVWOP Policy:

The owner must inform FVWOP when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform FVWOP when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide FVWOP with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, FVWOP will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform FVWOP of the date when the family actually moves from the unit or the family is physically evicted from the unit.

BREACH OF HAP CONTRACT [24 CFR 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS.
- If the owner has violated any obligation under any other HAP contract under Section 8;
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.
- If the owner has engaged in drug-related criminal activity.
- If the owner has committed any violent criminal activity.

If FVWOP determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

FVWOP rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the

housing assistance payment, termination of the payment or termination the HAP contract. FVWOP may also obtain additional relief by judicial order or action.

FVWOP must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. FVWOP must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

FVWOP Policy

- Before FVWOP invokes a remedy against an owner, FVWOP will evaluate all information and documents available to determine if the contract has been

breached.

- If relevant, FVWOP will conduct an audit of the owner's records pertaining to the tenancy or unit.
- If it is determined that the owner has breached the contract, FVWOP will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

11. II.D. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- FVWOP terminates the HAP contract;
- FVWOP terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since FVWOP made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by FVWOP;
- The Annual Contributions Contract (ACC) between FVWOP and HUD expires;
- FVWOP elects to terminate the HAP contract.

FVWOP Policy:

FVWOP may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)]

If FVWOP terminates the HAP contract, FVWOP must give the owner and the family written

notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

FVWOP Policy:

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which FVWOP gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to FVWOP any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

**11. II.E. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT
[HUD-52641]**

The HAP contract cannot be assigned to a new owner without the prior written consent of FVWOP. An owner under a HAP contract must notify FVWOP in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by FVWOP.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that FVWOP finds acceptable. The new owner must provide FVWOP with a copy of the executed agreement.

FVWOP Policy:

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in this chapter.

FVWOP must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, FVWOP will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to FVWOP that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner offers a new lease, no assignment will occur. FVWOP will inspect the unit to confirm Housing Quality Standards (HQS) compliance and execute a new contract.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, FVWOP will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, FVWOP will process the lease in accordance with the policies in this plan.

Part III: FVWOP GRIEVANCE PROCEDURE FOR LANDLORDS

11. III.A. FVWOP GRIEVANCE PROCEDURE SUMMARY:

The purpose of the FVWOP Grievance Procedure for HCV program landlords is to provide landlords the opportunity for a hearing and/or due process for FVWOP decisions that adversely affect their housing assistance payments (HAP). The role of the landlord in the HCV program is to provide decent, safe, and sanitary housing to a tenant at a reasonable cost. The dwelling unit must pass the program's housing quality standards and be maintained up to those standards as long as the owner receives HAP. In addition, the landlord is expected to provide the services agreed to as part of the lease signed with the tenant and the contract signed with FVWOP.

In order to provide the requisite hearings, the Housing Authority requires the services of a Hearing Officer(s) to conduct the hearing and render a decision on whether the Housing Authority's decision is justified under the law.

FVWOP will not grant an informal hearing to landlords for the following reasons:

- Failure to maintain property in good condition
- Failure to comply with equal housing opportunity requirements
- Failure to complete all necessary repairs within a reasonable amount of time upon request by FVWOP or tenant, including 24 hour emergency items. The amount of time that is considered reasonable depends upon the nature of the problem and any approved extension by FVWOP
- Except for emergencies or tenant's requested repairs, entering a unit without tenant's permission and/or prior notice

- If HUD has issued a due process determination that state law gives a tenant
- Owner has engaged in drug-related criminal activity
- Owner has committed any violent criminal activity
- Owner has committed fraud, bribery, or any other corrupt or criminal act in connection with the mortgage or loan insured by HUD

The Franklin Vance Warren Opportunities Grievance Procedure for Landlords is available to all landlords that participate in the program.

11. III.B. DEFINITIONS:

For purposes of the FVWOP Grievance Procedure, the following definitions shall be applicable:

- A. Adverse Action** means a decision made by FVWOP to recover overpayments; to abate an assisted unit; to reduce the amount of housing assistance payments; to terminate housing assistance payments; and to terminate the HAP agreement, based on the following: failure to perform all of the owner's obligations under the HAP contract and lease; failure to perform all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit, and not denying an applicant tenancy on an inappropriate basis if the applicant otherwise qualifies for tenancy; failure to comply with Housing Quality Standards; failure to comply with notices to repair; and failure to prepare and furnish to the FVWOP information FVWOP required under the HAP contract.
- B. Decision** means a written determination of a Grievance prepared by the FVWOP Hearing Officer.
- C. Dispute** means to question the validity or truth of an administrative action taken by FVWOP.
- D. Grievance** means a complaint submitted by a HCV landlord about a FVWOP decision that adversely affects the HCV landlord or applicant or housing assistance payment.
- E. Grievant** means a HCV landlord or landlord applicant for the Housing Choice Voucher Program who submits the complaint referenced in D above.
- F. Hearing** means an impartial Hearing of a grievance and all related oral and documentary evidence, conducted by an impartial third party designated by the FVWOP.
- G. HUD** means the Department of Housing and Urban Development.
- H. Informal Hearing** means an informal process conducted by the Hearing Officer or designated person to hear oral and documentary evidence pertinent to the facts and issues raised when the HCV landlord appeals an adverse action which has been taken or is proposed to be taken.

- I. Formal Hearing** means a Hearing of a grievance and all related oral and documentary evidence, conducted by the FVWOP official responsible for making the decision that gave rise to the grievance, in consultation with the Grievant.
1. **Informal Settlement** means a written agreement between a FVWOP (HCV) Housing Quality Standards & Financial Services Coordinator and a participant Grievant that resolves a grievance without a formal hearing.
- J. FVWOP** means the Franklin Vance Warren Opportunities.
- K. Participant** means a family in the Housing Choice Voucher Program that holds a valid voucher issued by the FVWOP; or currently occupies a unit assisted under the Housing Choice Voucher Program; or continues to occupy an assisted unit after the FVWOP suspends housing assistance payments due to landlord default, but does not have a transfer voucher; or vacates an assisted unit before requesting a transfer voucher for reasons beyond their control; or has made a timely request for a transfer voucher; or has made a timely request for an informal hearing.
- L. Housing Choice Voucher Program** means federally assisted housing program administered through the FVWOP and where landlords own the units in the private sector.
- M. Substandard Housing** means a unit that is not livable according to HUD definition.
- N. Unit** means residential space for the private use of the family.

11. III.C. HOUSING CHOICE VOUCHER LANDLORDS

HCV landlords who have adverse actions taken against them by FVWOP may request and receive an Informal Hearing of that determination. The informal Hearing will be conducted by the Hearing Officer or designated person selected by FVWOP.

Notification of the Adverse Action

Within ten (10) calendar days of the FVWOP determination, FVWOP must provide written notification to the landlord detailing the following:

- the basis for the determination, and
- the procedures to request an Informal Hearing of the determination. An informal Hearing Request Form shall be included with the notification of termination.

Informal Hearing Request Procedures

The landlord must submit a written request for an Informal Hearing within ten (10) calendar days of the date the FVWOP notification is received. The request for an Informal Hearing shall be submitted to:

**FVWOP Housing Director
180 S. Beckford Dr, Henderson, NC 27536**

Upon receipt of the request, Executive Director and/or his/her designee shall schedule a meeting with the landlord within ten (10) calendar days of the date the request is received.

The Informal Hearing Meeting

The FVWOP Hearing Officer and/or his/her designee shall conduct the Informal Hearing Meeting. The landlord and/or his/her authorized representative shall be in attendance together with the FVWOP official responsible for making the determination at issue.

1. Presentation of Evidence:

During the Informal Hearing Meeting, the landlord and/or his/her authorized representative shall be afforded an opportunity to present related documentary and/or oral evidence which discounts, disproves, disputes or otherwise mitigates the basis for the ineligibility determination. During the Informal Hearing Meeting, the FVWOP official responsible for making the determination shall be required to provide the regulatory and/or policy basis for the determination at issue together with any related documentary evidence.

2. The Informal Hearing Decision Notification:

Within ten (10) calendar days of the date of the Informal Hearing Meeting, the FVWOP Hearing Officer or his/her designee shall notify the landlord and/or his/her authorized representative, in writing, of the Informal Hearing Decision.

3. The Informal Hearing Decision:

The Hearing Officer may ask the Landlord for additional information and/or might adjourn the Hearing to reconvene at a later date, before reaching a decision, but must render a decision within ten (10) calendar days of the initial hearing regardless of the request for additional information.

The Hearing Officer shall prepare a written decision that sets forth the following:

- The date of the hearing
- The names of the parties and their representatives in attendance
- A description of the issues and evidence presented at the hearing
- A brief description of the respective position of the parties
- The applicable lease provisions, policy provisions and/or regulations
- The disposition of the Grievance.

Within ten (10) calendar days of the decision by the Hearing Officer, the grievant must become compliant with the results rendered by the Hearing Officer.

The Landlord has the right to appeal the decision of the Hearing Officer to the FVWOP Board of Commissioners. The appeal's request must be in writing clearly stating the landlord's reason for the appeal request and must be addressed to:

**FVWOP Housing Director
180 S. Beckford Dr, Henderson, NC 27536**

The decision of the Hearing Officer is binding on the FVWOP unless:

1. The FVWOP Board of Commissioners determines that the decision violates local, state or federal law;
2. The FVWOP Board of Commissioners determines that the Grievance did not concern a FVWOP act or failure to act, or that it did not concern a FVWOP decision that adversely affected the Grievant lease, rights, duties, welfare or status; or
3. The FVWOP Board of Commissioners determines that the Hearing Officer's decision violates the requirements of the Annual Contributions Contract between FVWOP and HUD.
4. The FVWOP Board of Commissioners determines that the Hearing Officer's Decision conflicts, violates or contradicts HUD regulations or requirements.

The decision of the Hearing Officer and/or of the FVWOP Board of Commissioners shall not constitute a waiver of, nor affect in any manner whatsoever, the Grievant right to institute legal action against the FVWOP in a court of competent jurisdiction regarding the subject matter of the Grievance.

The landlord shall receive written notification advising that the Informal Hearing Decision is Final and if the applicant believes that FVWOP practice/decision is discriminatory he/she has the right to submit a complaint to:

**The United States Department of Housing & Urban Development
Greensboro Field Office/Asheville Building
1500 Pincroft Road, Suite 401
Greensboro, NC 27407-3838**

CHAPTER 12 PROGRAM INTEGRITY

INTRODUCTION

FVWOP is committed to ensuring that subsidy funds made available to FVWOP are spent in accordance with HUD requirements.

This chapter covers HUD and FVWOP policies designed to prevent, detect, investigate and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents FVWOP policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures FVWOP must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

FVWOP Policy

FVWOP anticipates that the vast majority of families, owners, and FVWOP employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure that FVWOP's HCV program is administered effectively and according to the highest ethical and legal standards, FVWOP will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

FVWOP will discuss program compliance and integrity issues during the voucher briefing sessions described in this plan.

FVWOP will provide each applicant and participant with the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

FVWOP will place a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010) on key FVWOP forms and form letters that request information from a family or owner.

FVWOP staff will be required to review and explain the contents of all HUD- and FVWOP-required forms prior to requesting family member signatures.

FVWOP will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

FVWOP will provide each FVWOP employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

12. I.A. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, FVWOP will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires FVWOP to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985].

FVWOP Policy

- In addition to the SEMAP quality control requirements, FVWOP will employ a variety of methods to detect errors and program abuse.
- FVWOP routinely will use available sources of up-front income verification to compare with family-provided information.
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- FVWOP will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of FVWOP activities and notifies FVWOP of errors and potential cases of program abuse.

FVWOP Policy:

FVWOP will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of FVWOP's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

FVWOP Policy:

FVWOP will encourage staff, program participants, and the public to report program abuse.

12. I.B. INVESTIGATING ERRORS AND PROGRAM ABUSE

When FVWOP Will Investigate

FVWOP Policy:

FVWOP will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for FVWOP to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

FVWOP will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

FVWOP may investigate possible instances of error or abuse using all available FVWOP and public records. If necessary, FVWOP will require HCV families to give consent to the release of additional information.

Analysis and Findings

FVWOP Policy:

FVWOP will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation FVWOP will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed FVWOP, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether FVWOP will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

FVWOP Policy

In the case of family-caused errors or program abuse, FVWOP will take into consideration:

- (4) the seriousness of the offense and the extent of participation or culpability of individual family members;
- (5) any special circumstances surrounding the case;
- (6) any mitigating circumstances related to the disability of a family member;
- (7) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, FVWOP will take into consideration:

- (1) the seriousness of the offense;
- (2) the length of time since the violation has occurred; and
- (3) the effects of a particular remedy on family members who were not involved in the offense.

Notice and Appeals

FVWOP Policy:

FVWOP will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which FVWOP determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

12. II.A. CORRECTIONS

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, FVWOP must promptly correct the HAP, family share, and any utility reimbursement prospectively.

FVWOP Policy:

- Increases in the family share will be implemented only after the family has received 30 days notice.
- Any decreases in family share will become effective the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse FVWOP or FVWOP is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

12. II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows FVWOP to use incorrect information provided by a third party.

Family Reimbursement to FVWOP [HCV GB pp. 22-12 to 22-13]

FVWOP Policy:

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. FVWOP may, but is not required to, offer the family a repayment agreement in accordance with Chapter 15. If the family fails to repay the excess subsidy, FVWOP will terminate the family's assistance in accordance with the policies in Chapter 15.

FVWOP Reimbursement to Family [HCV GB p. 22-12]

FVWOP Policy:

FVWOP will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to FVWOP [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

FVWOP Policy:

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by FVWOP for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to FVWOP Board of Commissioners, employees, contractors, or other FVWOP representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to FVWOP on the family's behalf
- Use of a false name or the use of falsified, forged, or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)
- Omitting facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member
- FVWOP may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

Penalties for Program Abuse

In the case of program abuse caused by a family, FVWOP may, at its discretion, impose any of the following remedies.

- FVWOP may require the family to repay excess subsidy amounts paid by FVWOP, as described earlier in this section.
- FVWOP may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit
- FVWOP may deny or terminate the family's assistance following the policies set forth this plan.
- FVWOP may refer the family for state or federal criminal prosecution as described in this plan

12. II.C.OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

Owner Reimbursement to FVWOP

In all cases of overpayment of subsidy caused by the owner, the owner must repay to FVWOP any excess subsidy received. FVWOP may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, FVWOP may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

FVWOP Policy:

In cases where the owner has received excess subsidy, FVWOP will require the owner to repay the amount owed in accordance with the policies in this plan.

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to FVWOP [Title 18 U.S.C. Section 1001].

- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

FVWOP Policy:

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by FVWOP
- Charging a security deposit other than that specified in the family's lease
- Charging the family for services that are provided to unassisted tenants at no extra charge
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to FVWOP Board of Commissioners, employees, contractors, or other FVWOP representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to FVWOP
- Residing in the unit with an assisted family.

Remedies and Penalties

When FVWOP determines that the owner has committed program abuse, FVWOP may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in this plan.
- Terminate the HAP contract.
- Bar the owner from future participation in any FVWOP programs.
- Refer the case to state or federal officials for criminal prosecution as described in this chapter.

12. II.D. FVWOP-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of FVWOP staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a FVWOP staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in FVWOP personnel policy.

FVWOP-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

Repayment to FVWOP

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by FVWOP staff [HCV GB. 22-12].

FVWOP Reimbursement to Family or Owner

FVWOP must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from FVWOP's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

FVWOP Policy:

Any of the following will be considered evidence of program abuse by FVWOP staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to FVWOP
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of FVWOP activities, policies, or practices
- Misappropriating or misusing HCV funds

- Destroying, concealing, removing, or inappropriately using any records related to
- the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

12. II.E. CRIMINAL PROSECUTION

FVWOP Policy:

When FVWOP determines that program abuse by an owner, family, or FVWOP staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, FVWOP will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

12. II.F. FRAUD AND PROGRAM ABUSE RECOVERIES

FVWOP may retain a portion of program fraud losses that FVWOP recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

FVWOP must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits FVWOP to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that FVWOP incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of FVWOP related to the collection, these costs must be deducted from the amount retained by FVWOP.

CHAPTER 13
SPECIAL HOUSING TYPES
[24 CFR 982.601]

13.I.A. INTRODUCTION

The PHA will permit the use of Manufactured Housing types in its program.

The PHA will permit the use of Congregate Housing and Group Homes in its program only if the applicant/participant can demonstrate that it is needed as a reasonable accommodation for a person with a disability or for the elderly. Acceptable demonstration will include documentation from one or more knowledgeable professionals who are familiar with the applicant/participant and or the type of special housing requested as accommodation.

The PHA will not set aside any program funding for special housing types, or for a special housing type. A family may choose whether to rent housing that qualifies as a special housing type or to rent other eligible housing in accordance with requirements of the program.

13.I.B. VERIFICATION OF NEED FOR REASONABLE ACCOMMODATION

Acceptable documentation as verification of the need for reasonable accommodation would be a letter to the PHA describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by PHA staff and a written response stating approval or disapproval will be sent to the applicant/participant within 15 calendar days of receipt of the request.

A copy of the PHA's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

13. I.C. CONGREGATE HOUSING [24 CFR 982.606]

An elderly person or a person with disabilities may reside in a congregate housing unit. The PHA may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

Congregate Housing Lease and HAP Contract [24 CFR 982.607]

For congregate housing, there will be a separate lease and HAP contract for each assisted family. Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the PHA payment standard schedule.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard amount.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

Housing Quality Standards

The PHA will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

13. II.A. GROUP HOMES [24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

An elderly person or a person with disabilities may reside in a State-approved group home. If approved by the PHA, a live-in aide may reside with a person with disabilities.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities.

The PHA will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

Group Home Lease and HAP Contract [24 CFR 982.611]

There will be a separate HAP contract and lease for each assisted person living in a group home. For a group home, the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in aide.

Group Home Rent and HAP Contract [24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.

The reasonable rent for a group home is determined in accordance with 24 CFR 982.503. In determining reasonable rent, the PHA will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

Maximum Subsidy

Unless there is a live-in aide, the family unit size is zero. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size; or the pro-rata portion of the payment standard amount on the PHA payment standard schedule for the group home size.

Utility Allowance

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

Housing Quality Standards

The PHA will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

13. III.A. MANUFACTURED HOMES [24 CFR 982.620]

The PHA will permit a family to lease a manufactured home and space with assistance under the program. The PHA will not provide assistance for a family that owns the manufactured home and leases only the space.

The PHA may approve a live-in aide to reside with a family to care for a person with disabilities.

The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the PHA approves a live-in aide, the live-in aide must be counted when determining the family unit size.

Housing Quality Standards [24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" chapter and regulated by 24 CFR 982.401. In addition, the manufactured home also must meet the following requirements:

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage.

A manufactured home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

13. IV.A. HOMEOWNERSHIP [24 CFR 982.625 through 982.643]

13.IV.B. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. FVWOP must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

FVWOP Policy:

FVWOP has instituted a minimum homeowner down payment requirement of at least three percent of the purchase price, and requires that at least one percent of the purchase price come from the family's personal resources.

There are two forms of homeownership assistance a FVWOP may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. FVWOP may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If a FVWOP offers both forms of assistance, a family must choose which form of assistance to receive.

FVWOP Policy:

FVWOP will offer the monthly homeownership assistance payments to qualified families.

FVWOP must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of FVWOP to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. FVWOP must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. FVWOP may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where FVWOP has otherwise opted not to implement a homeownership program.

FVWOP must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. FVWOP may also establish additional initial requirements as long as they are described in FVWOP administrative plan.

FVWOP Policy:

For disabled and elderly families, there will be no additional minimum income requirement. For non-disabled families, the minimum income requirement will be \$18,000 per year. The requirements of 24 CFR 982.627 (c)(3) will be applicable.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. FVWOP may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not FVWOP's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.
- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.

FVWOP Policy:

FVWOP will count self-employment in a business when determining whether the family meets the employment requirement.

- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family, includes a person with disabilities, FVWOP must grant an exemption from the employment

requirement if FVWOP determines that it is needed as a reasonable accommodation.

- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).

FVWOP Policy:

FVWOP will impose additional eligibility requirements. To be eligible to participate in the homeownership option, families must meet the following criteria:

- The family has had no family-caused violations of HUD's Housing Quality Standards within the past year.
- The family is not within the initial one-year period of a HAP Contract.
- The family does not owe money to FVWOP.
- The family has not committed any serious or repeated violations of a FVWOP assisted lease within the past year.

SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), FVWOP may limit homeownership assistance to families or purposes defined by FVWOP, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in FVWOP administrative plan.

FVWOP Policy:

FVWOP will administer up to 10 new homeownership units per year. FVWOP may exceed the number of units planned per year if it is necessary as a reasonable accommodation for a person with a disability. If this occurs, FVWOP may reduce the number of homeownership units offered in subsequent years.

If FVWOP limits the number of families that may participate in the homeownership option, FVWOP must establish a system by which to select families to participate.

FVWOP Policy:

Families who have been participating in an economic self-sufficiency program for at least six months, or have graduated from such a program, will be given preference over other families. Elderly and disabled families will automatically be given this preference.

Within preference and non-preference categories, families will be selected according to the date and time their application for participation in the homeownership option is submitted to FVWOP.

All families must meet eligibility requirements as defined in this chapter.

ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, FVWOP must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD’s “eligible housing” requirements. The unit may not be any of the following:
 - A public housing or Indian housing unit;
 - A unit receiving Section 8 project-based assistance;
 - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
 - A college or other school dormitory;
 - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by FVWOP and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.

For FVWOP-owned units all of the following conditions must be satisfied:

- FVWOP informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a FVWOP-owned unit is freely selected by the family without FVWOP pressure or steering;

- The unit is not ineligible housing;
- FVWOP obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any FVWOP provided financing. All of these actions must be completed in accordance with program requirements.

FVWOP must not approve the unit if FVWOP has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

13. IV.C. ADDITIONAL FVWOP REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. FVWOP may establish the maximum time that will be allowed for a family to locate and purchase a home, and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by FVWOP, FVWOP may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

FVWOP Policy:

The family will be allowed 120 days to identify a unit and submit a sales contract to FVWOP for review. The family will be allowed an additional 120 days to close on the home. FVWOP may grant extensions to either of these periods for good cause. The length of the extension(s) will be determined on a case-by-case basis, but in no case will an extension exceed a total of 125 days. The maximum amount of time a family will be given to locate and complete the purchase of a home under the homeownership option is 365 days.

During these periods, the family will continue to receive HCV rental assistance in accordance with any applicable lease and HAP contract until the family vacates the rental unit for its purchased home.

All requests for extensions must be submitted in writing to FVWOP prior to the expiration of the period for which the extension is being requested. FVWOP will approve or disapprove the extension request within 10 business days. The family will be notified of FVWOP's decision in writing.

FVWOP Policy:

The family will be required to report their progress on locating and purchasing a home to FVWOP every 30 days until the home is purchased.

FVWOP Policy:

If the family cannot complete the purchase of a unit within the maximum required time frame, and is not receiving rental assistance under a HAP contract at the time the search and purchase time period expires, the family will be issued a voucher to lease a unit. In no case shall the family remain unassisted for a period exceeding 180 days.

13. IV.D. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by FVWOP. HUD suggests the following topics for FVWOP-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in FVWOP jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

FVWOP may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

FVWOP may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If FVWOP offers a program of ongoing counseling for participants in the homeownership option, FVWOP shall have discretion to determine whether the family is required to participate in the ongoing counseling.

FVWOP Policy:

If required by FVWOP, families must attend and complete post-purchase ongoing homeownership counseling.

FVWOP is a certified HUD-approved housing counseling agency that provides the housing counseling services, FVWOP will ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

13. IV.E. HOME INSPECTIONS, CONTRACT OF SALE, AND DHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

FVWOP may not commence monthly homeownership assistance payments or provide down payment assistance grants for a family until FVWOP has inspected the unit and has determined that the unit passes HQS.

FVWOP Policy:

When the family locates a home they wish to purchase and submits a copy of their purchase offer/contract, FVWOP will conduct a housing quality standards (HQS) inspection within 10 business days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the homeownership program.

FVWOP Policy:

While the family is receiving homeownership assistance, FVWOP will conduct an HQS inspection on an annual basis.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

FVWOP may not require the family to use an independent inspector selected by FVWOP. The independent inspector may not be a FVWOP employee or contractor, or other person under control of FVWOP. However, FVWOP may establish standards for qualification of inspectors selected by families under the homeownership option.

FVWOP Policy

The family must hire an independent professional inspector, whose report must be submitted to FVWOP for review. This inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or licensed engineer. The inspector may not be a FVWOP employee.

FVWOP may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

FVWOP Policy:

FVWOP will review the professional report in a timely fashion and, based on the presence of major physical problems, may disapprove the purchase of the home.

If FVWOP disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

Contract of Sale

Before commencement of monthly homeownership assistance payments or receipt of a down payment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give FVWOP a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

Disapproval of a Seller

In its administrative discretion, FVWOP may deny approval of a seller for the same reasons a FVWOP may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

13. IV.F. FINANCING [24 CFR 982.632]

FVWOP may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. FVWOP must establish policies describing these requirements in the administrative plan.

FVWOP may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

FVWOP Policy:

As a check against predatory lending, FVWOP will review the financing of each purchase transaction, including estimated closing costs. FVWOP will review the loans for features, such as balloon payments, adjustable rate mortgages, and unusually high interest rates, all of which are prohibited. FVWOP also will not approve “seller financing” or “owner-held” mortgages.

Beyond these basic criteria, FVWOP will rely on the lenders to determine that the loan will be affordable to program participants.

FVWOP Policy:

The mortgage the family applies for must require a minimum down payment of at least 3% of the sales price with 1% of the down payment coming from the purchaser’s personal funds. FVWOP will not require that the family have any more than the minimum of 1% of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by their lending institution.

CHA will approve a family’s request to utilize its Family Self-Sufficiency escrow account for down payment and/or closing costs when purchasing a unit under the HCV homeownership option.

13. IV.G. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, FVWOP may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to FVWOP the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).

- The family must supply information to FVWOP or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by FVWOP or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify FVWOP before moving out of the home.
- The family must notify FVWOP if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

FVWOP Policy:

Any HQS failed items noted on any inspection after the initial inspection will have to be corrected by the family within 30 calendar days as a condition of continued assistance.

13.IV.H. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.
- The maximum term described above applies to any member of the family who:
 - Has an ownership interest in the unit during the time that homeownership payments are made; or
 - Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

13.IV.I. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, FVWOP will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this plan for the Housing Choice Voucher program.

FVWOP may pay the homeownership assistance payments directly to the family, or at FVWOP's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, FVWOP must pay the excess directly to the family.

FVWOP Policy

FVWOP's housing assistance payment will be paid directly to the lender unless the mortgage company refuses to accept payments from more than one source. In such case, FVWOP's housing assistance payment will be paid directly to the family. If the assistance payment exceeds the amount due to the lender, FVWOP must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a FVWOP may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

FVWOP Policy:

In order for FVWOP to consider granting relief from the requirement to automatically terminate homeownership assistance 180 days following FVWOP's last housing assistance payment on behalf of the family, the family must submit a request to FVWOP at least 30 days prior to the date of automatic termination.

The request must include an explanation of the circumstances that will cause an extreme hardship for the family (e.g., the imminent loss of income or employment) as well as documentation supporting the request. FVWOP will determine on a case-by-case basis whether to grant relief from the requirement and for what period of time. In no case will FVWOP postpone termination beyond an additional 90 days.

FVWOP must adopt policies for determining the amount of homeownership expenses to be allowed by FVWOP in accordance with HUD requirements.

FVWOP Policy:

FVWOP will allow the following homeownership expenses:

1. **Monthly homeownership payment.** This includes principal and interest on initial mortgage debt, taxes and insurance, and any mortgage insurance premium, if applicable.
2. **Utility allowance.** FVWOP’s utility allowance for the unit, based on the current HCV utility allowance schedule.
3. **Monthly maintenance allowance.** The monthly maintenance allowance will be the annual maintenance allowance, divided by twelve. The annual maintenance allowance will be set at .5 percent of the purchase price of the home.
4. **Monthly major repair/replacement allowance.** The monthly major repair/replacement allowance will be the annual major repair/replacement allowance divided by 12. The annual major repair/replacement allowance will be set as a percentage of the purchase price of the home, based on the age of the home at the time of purchase and/or re-examination.

Age of Home	% of Purchase Price Allowed
New to 20 years	6
21 to 30 years	1.0
31 to 40 years	1.5
41 to 50 years	2.0
41 years plus	2.4

5. **Monthly co-op/condominium assessments.** If applicable, the monthly amount of co-op or condominium association operation and maintenance assessments.
6. **Monthly principal and interest on debt for improvements.** Principal and interest for major home repair, replacements, or improvements, if applicable.

Homeownership expenses (not including cooperatives) only include amounts allowed by FVWOP to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- FVWOP allowance for maintenance expenses;
- FVWOP allowance for costs of major repairs and replacements;
- FVWOP utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if FVWOP determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by FVWOP to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- FVWOP allowance for maintenance expenses;
- FVWOP allowance for costs of major repairs and replacements;
- FVWOP utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such

debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if FVWOP determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.

- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

13. IV.J. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and FVWOP policies, a family may exercise portability if the receiving FVWOP is administering a voucher homeownership program and accepting new homeownership families. The receiving FVWOP may absorb the family into its voucher program, or bill the initial FVWOP.

The family must attend the briefing and counseling sessions required by the receiving FVWOP. The receiving FVWOP will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving FVWOP must promptly notify the initial FVWOP if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by FVWOP.

13. IV.J. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

FVWOP Policy:

For families participating in the homeownership option, requests to move will be approved and/or denied in accordance with FVWOP policies in this plan.

FVWOP Policy:

FVWOP will require additional counseling of any families who move with continued assistance.

FVWOP may deny permission to move to a new unit with continued voucher assistance as follows:

- Lack of funding to provide continued assistance.

- At any time, FVWOP may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with FVWOP's policy regarding number of moves within a 12-month period.
- FVWOP must deny the family permission to move to a new unit with continued voucher rental assistance if:
 - The family defaulted on an FHA-insured mortgage; and
 - The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

13. I.M. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, FVWOP may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

FVWOP may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy.

FVWOP Policy:

- FVWOP will terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in Section 1, as well as for any of the reasons listed in Section 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.
- In making its decision to terminate homeownership assistance, FVWOP will consider alternatives as described in this plan.
- Upon consideration of such alternatives and factors, FVWOP may, on a case-by-case basis, choose not to terminate assistance.
- Termination notices will be sent in accordance with the requirements and policies set forth in this plan.

FVWOP must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

13. V.A. PROJECT-BASED VOUCHER PROGRAM

13. V.B. INTRODUCTION

The Project Based Voucher (PBV) program attaches rental assistance to a particular unit rather than to a family (as with tenant-based rental assistance). This chapter outlines the HA's policies pertaining to administration of the PBV Program.

13. V.C. CAP ON NUMBER OF PBV UNITS

24 CFR 983.56 (a) (amended by Federal Register Notice FR-5242-N-01): "Except as provided in paragraph (b) of this section, the HA may not select a proposal to provide PBV assistance for units in a project or enter into an Agreement or HAP contract to provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project. (b): Exceptions to 25 percent per project cap: Units in a single family building accepted units in a multifamily building. 'Excepted' units mean units in a multifamily building that are specifically made available for elderly or disabled families or families receiving supportive services (at least one family member must be receiving at least one qualifying supportive service)."

13. V.E. PROJECT SELECTION PROCEDURES [24 CFR 983.5]1

The FVWOP will select projects in either of two ways:

Competitive – The HA will issue a Request for Proposal that outlines:

- a. Number of PBV units being made available
- b. Minimum 15-day proposal submission deadline
- c. Required format of proposals
- d. Required submission format (mail, fax, e-mail, etc.)
- e. Term of Housing Assistance Contract
- f. Other special requirements, i.e., labor standards/Davis Bacon requirements Criteria will include, but is not limited to:
 - Housing type (new construction, rehab, existing)
 - Resident type (senior, family, etc.)
 - Minimum/maximum total units in project
 - Minimum/maximum PBV units in project

Scoring components will include, but are not limited to:

- a. Site location adequacy (proximity to mainstream services)
- b. Design adequacy (amenities and physical layout of project meets needs of population served)
- c. Project Feasibility – Financial
- d. Project Feasibility - Developer experience

Non-competitive - The FVWOP may select a proposal for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals [e.g., HOME, and units for which competitively awarded Low-Income Housing Tax Credits (LIHTC) have been provided]:

- a. The proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date.
- b. The earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance.

Public Notice of selected proposals - The FVWOP will publish a public notice of selected proposals within 30 days of initial selection.

13. V.E. SITE SELECTION STANDARDS

24CFR 983.57 (b) (1): “Project-based assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the HA Administrative Plan.”

In determining if a project meets the goal of deconcentrating poverty and expanding housing and economic opportunities, certain conditions of the census tract and general area where the site is located will be considered, including:

- a. Poverty rate. The FVWOP will not select a project for PBV if it is located in an area with a poverty rate greater than 20% unless at least two of the following conditions are present:
 - There has been an overall decline in the poverty rate for the area over the past five years; and/or
 - New market rate units have been/are being developed in the same census tract where the proposed PBV development will be located and it is likely that those units will positively impact the poverty rate in the area; and/or
 - The area in which the proposed PBV development will be located is undergoing significant revitalization.

- Economic/educational opportunities. Projects selected for PBV must be located in an area where there are, within a reasonable traveling distance, meaningful opportunities for educational and economic advancement.
 - Educational opportunity includes adult education, vocational school, state or community college.
 - Economic advancement opportunities include retail and other businesses offering entry-level job opportunities.
- b. Prior to selection of any project for PBV, the HA will conduct the following site inspections:
- General site inspection.
 - Unit inspection (rehabilitation and existing only).
 - Site and Neighborhood Standards review per HUD regulations at 24 CFR 983.57.

13. V.F. HAP ONTRACT

24 CFR 983.205 (a) & (b) (amended by Federal Register Notice FR-5242-N-01): “The HA may enter into a HAP contract with an owner for an initial term of up to fifteen years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year or more than fifteen years. Within one year of expiration, the HA may agree to extend the term of the HAP contract for an additional term of up to fifteen years [maximum] if the HA determines an extension is appropriate to continue providing affordable housing for low-income families.”

All HAP contract terms under the PBV program will be agreed upon between the owner and the FVWOP up to a maximum term of 15 years, with an option to extend for additional period(s) of up to 15 years at the discretion of the HA.

If a PBV contract unit remains vacant or occupied by an ineligible resident for 6 months or longer, the HA may remove that unit from the contract, thereby reducing the total number of units under contract.

13. V.G. RENT DETERMINATION

24 CFR 983.301 (b): “Except for certain tax credit units, the rent to owner must not exceed the lowest of: (1) An amount determined by the HA, not to exceed 110% of the applicable fair market rent for the unit bedroom size minus any utility allowance; (2) the reasonable rent; or (3) the rent requested by the owner.”

13. V.H. ANNUAL INSPECTIONS

24 CFR 983.103 (d): “(1) At least annually during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

(2) If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, the PHA must respect 100 percent of the contract units in the building.”

13. V.I. PARTICIPANT SELECTION

24 CFR 983.251 (b) (2): “In order to minimize displacement of in-place families, if a unit to be placed under contract is either an existing unit or one requiring rehabilitation is occupied by an eligible family on the proposal selection date, the in-place family must be placed on the PHA’s waiting list and, once its continued eligibility is determined, given an absolute selection preference and referred to the project owner for an appropriately sized PBV unit in the project.”

Waiting list: The HA will maintain one wait list that will include the PBV waiting list. Eligible PBV families will be select from the wait list when PBVs are available. Owners are responsible for screening all prospective tenants referred to them for tenancy suitability.

13. V.J. LEASE AND OCCUPANCY

24 CFR 983.352 (b) (1): “At the discretion of the HA, the HAP contract may provide for vacancy payments to the owner for a HA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month.”

24 CFR 983.259 (b) (1): “If the family is occupying a wrong size unit or unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the HA must offer the family the opportunity to receive continued housing assistance in another unit. (2): The HA policy of such continued housing assistance must be stated in the administrative plan.”

24 CFR 983.260 (a): “The family may terminate the assisted lease at any time after the first year of occupancy. (b): If the family has elected to terminate the lease in this manner, the HA must offer the family the opportunity for tenant-based rental assistance. (c) ... If voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family’s lease of a PBV unit, the PHA must give the family priority to receive the next available opportunity for continued tenant-based rental assistance.”

The following lease and occupancy rules will apply for PBV units:

- Vacancy payments (80% of the contract rent) may be made for up to 30 days for vacant PBV units provided the vacancy is not the owner's fault and the owner gave prompt notice to the HA of the vacancy.
- Vacancy payments (80% of the contract rent) may be made for up to 60 days for vacant PBV units designated for disabled and chronically homeless populations provided the vacancy is not the owner's fault and the owner gave prompt notice to the HA of the vacancy.
- In cases where a PBV unit becomes overcrowded or under-occupied or the unit is needed by a family that requires its accessibility features, the residing tenant will be offered a tenant-based Housing Choice Voucher of the appropriate subsidy size and will be given reasonable time (90 days) to utilize that alternate assistance.

CHAPTER 14

INFORMAL REVIEWS AND HEARINGS

14. IA. OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. FVWOP decisions that may be appealed by applicants and participants are discussed in this section. The process for applicant appeals of PHA decisions is called the —informal review.¶ For participants (or applicants denied admission because of citizenship issues), the appeal process is called an —informal hearing.¶ PHAs are required to include informal review procedures for applicants, and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

14.IIB. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a —minimum hearing requirement¶ [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127 (3 July 1995): 36490)

Decisions Subject to Informal Review

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

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

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

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition
- A PHA determination not to approve an extension or suspension of a voucher term

FVWOP Policy

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

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

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

Scheduling an Informal Review

FVWOP Policy

A request for an informal review must be made in writing and delivered to FVWOP either in person or by first class mail, by the close of the business day, no later than 15 calendar days from the date of the FVWOP's denial of assistance.

Except as provided in Section 3-III.G, FVWOP must schedule and send written notice of the informal review within 10 business days of the family's request.

Informal Review Procedures [24 CFR 982.554(b)]

FVWOP Policy

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

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

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

Informal Review Decision [24 CFR 982.554(b)]

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

FVWOP Policy

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

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

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

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

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

FVWOP will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

Notification to the applicant of the final decision must be signed by the Hearing Officer and Executive Director, or their designee.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

14-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, Pub.L. 109-162]

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

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

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

Decisions Subject to Informal Hearing

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

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA's subsidy standards, or the PHA determination to deny the family's request for exception from the standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

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

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

FVWOP Policy

FVWOP will only offer participants the opportunity for an informal hearing when required to by the regulations.

Hearing Procedures

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

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

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

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

FVWOP Policy

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

The proposed action or decision of FVWOP

A brief statement of the reasons for the decision including the regulatory reference
The date the proposed action will take place.

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

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

A deadline for the family to request the informal hearing

To whom the hearing request should be addressed

A copy of the FVWOP's hearing procedures.

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

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

FVWOP Policy

A request for an informal hearing must be made in writing and delivered to the FVWOP either in person or by first class mail, by the close of the business day, no later than 15 calendar days from the date of

FVWOP's decision or notice to terminate assistance.

FVWOP must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request. The written notice sent to the family scheduling the location, time and date of the hearing will also inform the family of their hearing discovery rights, and request a copy of all documents that the participant intends to present or utilize at the hearing. The letter will further inform the family that they must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date or the documents might not be allowed to be presented at the hearing.

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

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

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

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

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

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

FVWOP Policy

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of FVWOP documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date

FVWOP must be given an opportunity to examine at FVWOP offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, FVWOP will include in the scheduling letter a request for a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date or the documents might not be allowed to be presented at the hearing.

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

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

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

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

FVWOP Policy

FVWOP's designate qualified, knowledgeable professionals to serve as hearing officers for their locality.

Attendance at the Informal Hearing

FVWOP Policy

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

An FVWOP representative(s) and any witnesses for the FVWOP

The participant and any witnesses for the participant

The participant's counsel or other representative

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

Conduct at Hearings

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

FVWOP Policy

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

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

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

FVWOP Policy

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

Oral evidence: the testimony of witnesses

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

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

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

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

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

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

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

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

FVWOP Policy

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

FVWOP Notice to the Family: The hearing officer will determine if the reasons for

FVWOP's decision are factually stated in the Notice.

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

FVWOP Evidence to Support the Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer

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

The hearing officer will issue a written decision to the family and FVWOP no later than 10 business days after the hearing. The report will contain the following information:

Hearing information:

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

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

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

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

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

Procedures for Further Hearing

FVWOP Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the FVWOP's action will take effect and another hearing will not be granted.

PHA Notice of Final Decision [24 CFR 982.555(f)]

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

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

FVWOP Policy

The Hearing Officer will mail a —Notice of Final Decision‖ including the hearing officer's report, to the LSA, the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed.

A copy of the —Notice of Final Decision‖ along with the original proof mailing will be maintained in FVWOP's file.

Procedures for FVWOP Review

FVWOP Policy

In addition, within 10 business days after the date the hearing officer's report is mailed to the participant, the participant may request an FVWOP review. Such request must be made in writing and postmarked or hand-delivered to FVWOP [Attn: Hearing Officer, and to the other party within the 10 business day period.

The request must demonstrate cause, supported by specific references to the hearing officer's report, why the request should be granted. FVWOP will only conduct a review for purposes of determining if the decision:

2. Concerns a matter for which the LSA is not required to provide an opportunity for an Informal Hearing;
3. Concerns a matter that exceeds the authority of the Hearing Office under the LSA hearing procedures; or
4. Is contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.

FVWOP will not review new evidence. It will only examine the evidence that was originally submitted to the Hearing Officer and the hearing decision.

It shall be within the sole discretion of FVWOP to grant or deny the request for CHA review.

Final Agency Action

FVWOP Policy

The FVWOP's review will be concluded within 30 calendar days of receipt of the appeal. The review may result in the Hearing Officer's decision being upheld, reversed, or returned to the LSA with instructions for further action. After completing its review, the FVWOP's will notify all parties in writing.

The FVWOP's decision shall be the final agency action for all purposes.

CHAPTER 15

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

15-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].

FVWOP Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the PHA a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.354(b)(4), 24 CFR 982.353(b)].

FVWOP Policy

If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, the FVWOP will request documentation in accordance with section 16-IX.D of this plan.

The FVWOP reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the PHA will document the waiver in the family's file.

- The PHA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

15-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

Insufficient Funding

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)]. However, Notice PIH 2012-42 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

FVWOP Policy

The FVWOP will deny a family permission to move on grounds that the FVWOP does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the FVWOP; (b) the FVWOP can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the FVWOP can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs.

The FVWOP will create a list of families whose moves have been denied due to insufficient funding. When funds become available, the families on this list will take precedence over families on the waiting list. The FVWOP will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D). The FVWOP will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.354(e)(2)].

FVWOP Policy

If the FVWOP has grounds for denying or terminating a family's assistance, the FVWOP will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

Restrictions on Elective Moves [24 CFR 982.354(c)]

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.) In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2012-42].

FVWOP Policy

The FVWOP will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the FVWOP's jurisdiction or outside it under portability.

The FVWOP will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the PHA's jurisdiction.

The FVWOP will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the FVWOP will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

1-I.C. MOVING PROCESS

Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2), Notice PIH 2012-42]. The notices must be in writing [24 CFR 982.5].

Approval

FVWOP Policy

Upon receipt of a family's notification that it wishes to move, the FVWOP will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. The PHA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Reexamination of Family Income and Composition

FVWOP Policy

For families approved to move to a new unit within the FVWOP's jurisdiction, the FVWOP will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the FVWOP's jurisdiction under portability, the FVWOP will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

FVWOP Policy

For families approved to move to a new unit within the FVWOP's jurisdiction, the FVWOP will issue a new voucher within 10 business days of the FVWOP's written approval to move. No briefing is required for these families. The FVWOP will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the FVWOP approves.

Otherwise, the family will lose its assistance. For families moving into or families approved to move out of the FVWOP's jurisdiction under portability, the FVWOP will follow the policies set forth in Part II of this chapter.

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

PART 16: PORTABILITY

16-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the **initial PHA**. The PHA that has jurisdiction in the area to which the family wants to move is called the **receiving PHA**.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2012-42].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)]. PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

16-II.B. INITIAL PHA ROLE

Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family (24 CFR 982.255(b)).

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

FVWOP Policy

In determining whether or not to deny an applicant family permission to move under portability because the PHA lacks sufficient funding or has grounds for denying assistance to the family, the initial FVWOP will follow the policies established in section 10-I.B of this chapter. If the PHA does deny the move due to insufficient funding, the FVWOP will notify HUD in writing within 10 business days of the FVWOP's determination to deny the move.

In addition, the PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

FVWOP Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the FVWOP's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial FVWOP's jurisdiction for at least 12 months before requesting portability.

The FVWOP will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, or stalking.

Participant Families

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.353(b)].

FVWOP Policy

The FVWOP will determine whether a participant family may move out of the FVWOP's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The FVWOP will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.353(d)(1), 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2012-42].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

FVWOP Policy

For a participant family approved to move out of its jurisdiction under portability, the PHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The FVWOP will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

FVWOP Policy

No formal briefing will be required for a participant family wishing to move outside the FVWOP's jurisdiction under portability. However, the FVWOP will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program (see Chapter 5).

The FVWOP will provide the name, address, and phone of the contact for the FVWOPs in the jurisdiction to which they wish to move. If there is more than one FVWOP with jurisdiction over the area to which the family wishes to move, the FVWOP will advise the family that the family must select the receiving FVWOP and notify the initial FVWOP of which receiving FVWOP was selected. The FVWOP will further inform the family that if the family prefers not to select the receiving FVWOP, the initial FVWOP will select the receiving FVWOP on behalf of the family.

The FVWOP will advise the family that they will be under the RHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5.

FVWOP Policy

For participating families approved to move under portability, the FVWOP will issue a new voucher within 10 business days of the FVWOP's written approval to move. The initial term of the voucher will be 60 days.

Voucher Extensions and Expiration

FVWOP Policy

The FVWOP will approve **no** extensions to a voucher issued to an applicant or participant family porting out of the FVWOP's jurisdiction except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving FVWOP, (b) the family decides to return to the initial FVWOP's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third FVWOP's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the

family apply for an extension in writing prior to the expiration of the initial voucher term. To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 90 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [Notice PIH 2012-42].

FVWOP Policy

The FVWOP will use e-mail, when possible, to contact the receiving FVWOP regarding whether the receiving FVWOP will administer or absorb the family's voucher.

Initial Notification to the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

FVWOP Policy

Because the portability process is time-sensitive, the FVWOP will notify the receiving FVWOP by phone, fax, or e-mail to expect the family. The initial FVWOP will also ask the receiving FVWOP to provide any information the family may need upon arrival, including the name, fax, e-mail address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The FVWOP will pass this information along to the family. The FVWOP will also ask for the name, address, telephone number, fax and e-mail of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2012-42]
- A copy of the family's voucher [Notice PIH 2012-42]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2012-42]

- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2012-42]

FVWOP Policy

In addition to these documents, the FVWOP will provide the following information, if available, to the receiving PHA:

- Social security numbers (SSNs)
- Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program

The FVWOP will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2012-42, Letter to Executive Directors, 9/15/15]

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

FVWOP Policy

If the FVWOP has not received an initial billing notice from the receiving FVWOP within 90 days of expiration of the IHA's voucher, it will contact the receiving FVWOP by phone, fax, or e-mail on the next business day. If the PHA reports that the family is not yet under HAP contract, the FVWOP will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The FVWOP will send the receiving PHA a written confirmation of its decision by mail.

The FVWOP will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2012-42]

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of overleasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

FVWOP Policy

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

16-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial PHA's Request [24 CFR 982.355(c)]

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA (24 CFR 982.355(c)(4)).

FVWOP Policy

The FVWOP will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)].

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2012-42]. (For more on this topic, see later under "Denial or Termination of Assistance.")

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2012-42].

FVWOP Policy

The FVWOP will not require the family to attend a briefing. The FVWOP will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the FVWOP's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. The FVWOP will suggest that the family attend a full briefing at a later date.

Income Eligibility and Reexamination

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

FVWOP Policy

For any family moving into its jurisdiction under portability, the FVWOP will conduct a new reexamination of family income and composition. However, the FVWOP will not delay issuing the family a voucher for this reason. Nor will the FVWOP delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the FVWOP cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the FVWOP will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice

FVWOP Policy

When family ports into its jurisdiction, the FVWOP will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The FVWOP will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration of the initial PHA's voucher [24 CFR 982.355(c)(13)].

FVWOP Policy

The receiving PHA's voucher will expire 30 calendars days from the expiration date of the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(14), Notice 2012-42]

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

PHA Policy

The PHA generally will not extend the term of the voucher that it issues to an incoming portable family unless the PHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The PHA will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2012-42]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA.

Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2012-42].

Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)]

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

FVWOP Policy

Unless the FVWOP negotiates a different amount of reimbursement with the initial PHA, the FVWOP will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer

the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later

than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2012-42]. A copy of the family's form HUD-50058, Family Report, completed by

the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

FVWOP Policy

The FVWOP will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH 2012-42].

Ongoing Notification Responsibilities [Notice PIH 2012-42, HUD-52665]

Annual Reexamination. The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

FVWOP Policy

The FVWOP will send a copy of the updated HUD-50058 by regular mail at the same time the family and owner are notified of the reexamination results.

Change in Billing Amount. The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-

52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

Late Payments [Notice PIH 2012-42]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2012-42]

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2012-42.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement [HUD-52665; Notice PIH 2012-42].

FVWOP Policy

If the FVWOP elects to deny or terminate assistance for a portable family, the FVWOP will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The FVWOP will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

Absorbing a Portable Family

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that the PHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2012-42].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family [Notice PIH 2012-42].

FVWOP Policy

If the FVWOP decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the FVWOP will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the FVWOP decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability [24 CFR 982.355(e)(4)].

CHAPTER 17

APPENDICES

FAIR HOUSING AND EQUAL OPPORTUNITY PROCEDURES

Franklin Vance Warren Opportunities (FVWOP) affirmatively furthers Fair Housing in the administration of its Housing Choice Voucher program by complying fully with all federal, state, and local nondiscrimination laws and administers programs and activities in accordance with the rules and regulations governing Fair Housing and Equal Opportunity in housing, and marketing the program to members of protected classes who “are least likely to apply.”

FVWOP shall not discriminate against any applicant, participant, or landlord because of race, color, creed, national origin or ethnic origin or ancestry, religion, sex, age, disability, source of income, marital status or presence of children in a household (protected classes); nor will any criteria be applied, or information be considered pertaining to attributes or behavior that may be imputed by some to a particular group or category. FVWOP shall not deny any family the opportunity to apply for housing (when its waiting list is open) or deny any eligible applicant the opportunity to lease a housing unit that meets family needs and program requirements.

Discrimination Complaint Procedure

If an applicant or participant believes that any family member has been discriminated against by FVWOP or an owner, the family may notify the Executive Director of FVWOP by telephone, mail, or via the Internet at our Website.

The FVWOP Executive Director will refer the matter to the Program Compliance Coordinator to assist any family that believes they have suffered illegal discrimination. The Program Compliance Coordinator will conduct an inquiry into the matter and attempt to remedy the discrimination complaint against FVWOP.

The Program Compliance Coordinator will provide copies of the HUD housing discrimination form (903.1) and information and resources on how to file a fair housing complaint. The information and resources on how to file a fair housing complaint includes: HUD’s National Fair Housing Complaint Hotline number and the Federal Information Relay Service number; HUD’s Greensboro Field Office number and TTY number; North Carolina Human Relations Commission’s number and TTY number; and the Legal Aid of North Carolina’s Henderson number. The Program Compliance Coordinator will also assist any applicant, participant, or landlord in completing the form, if requested, and will provide the address and contact information of the nearest HUD Office of Fair Housing and Equal Opportunity.

Reasonable Accommodation Requests

Any applicant or participant may request a reasonable accommodation and the process for making such requests shall be accessible to all persons. All communications to applicants or participants must be in plain language that can be easily understood by the requester. If necessary, a format other than written documents should be used. FVWOP shall take appropriate steps to assure effective communication with applicants and participants who are disabled, and shall furnish appropriate auxiliary aids (e.g. qualified sign language and oral interpreters, readers, use of taped materials) where necessary to facilitate communication with an individual who has a disability. Auxiliary aids shall be furnished in a timely manner. If an applicant or participant requests an extension of any deadline because of a delay in providing effective communication,

such a request shall be considered.

All requests for reasonable accommodations should be directed to the Program Compliance Coordinator, who is responsible for coordinating FVWOP's compliance with applicable Fair Housing laws. The Program Coordinator will evaluate the request for reasonable accommodation and respond to the requests. Reasonable accommodations will be focused on the individual and designed to address each individual's circumstances on a case-by-case basis. The Program Compliance Coordinator will assume as an initial matter that the information the requester provides regarding his/her own needs is accurate and the method proposed for accommodating those needs is the most appropriate one to pursue. However, the Program Compliance Coordinator will seek from the person documentation and or/verification of the effect of the disability on the person and the method (s) proposed to accommodate it. The Program Compliance Coordinator will assess the request for a reasonable accommodation based on the established protocol for reasonable accommodation requests set forth in FVWOP's Administrative Plan.

Decisions on requests for a reasonable accommodation will be made as soon as possible but no later than 30 days from the time the request is made. If additional information is needed to make a decision on the applicant's request for an accommodation, the applicant will be notified by letter and given up to 20 days from the date of the letter to provide the requested information or otherwise respond to FVWOP's request. Failure to provide the information may serve as a basis to deny the request for a reasonable accommodation.

All decisions to deny a request for reasonable accommodation shall be made by the Executive Director. The Program Compliance Coordinator will provide the necessary written report and supporting documentation to justify the denial.

FVWOP shall keep written records in participant or applicant files of its decision to grant or deny any request for reasonable accommodation for a period of no less than three (3) years from the date of the request. However, information supplied by the applicant related to the nature or effects of the applicant's disability such as medical records is confidential and shall be maintained in a separate file. This information will be available only to persons within FVWOP who are directly involved in decisions regarding the request for reasonable accommodation.

Assessing Reasonable Accommodation Requests

In assessing requests for reasonable accommodation, the FVWOP will consider the factors set forth below, in making its determination of whether or not to grant the request. If at any stage in the assessment process FVWOP determines that it requires additional information from the applicant to make its determination, FVWOP will so inform the applicant in writing. In appropriate situations, the FVWOP may request that an applicant provide documentation from a medical professional concerning the applicant's disability and the relationship of the requested accommodation to that disability. FVWOP may include in its written communication to the applicant notice of a reasonable deadline for submission of the information to the FVWOP. Under no circumstances shall the FVWOP deny a request for reasonable accommodation based on a lack of sufficient information without first informing the applicant of its need for additional information and affording the applicant a reasonable opportunity to provide it.

Determinative Factors:

4. Whether the applicant is a qualified "individual with [a] disability".
5. Whether the requested accommodation is related to the disability.
6. Whether the requested accommodation is "reasonable."

A request for an accommodation shall be considered "reasonable" as long as it does not create an undue financial hardship and administrative burden or constitute a fundamental alteration in the HCV program.

- a. The determination of whether an accommodation constitutes an undue financial and administrative burden shall be made on a case-by-case basis, taking into account the circumstances and resources available at the time of the decision.
- b. If granting the requested accommodation would create an undue financial and administrative burden, FVWOP shall comply with the request to the extent it can do so without undergoing undue burden(s) as described above.
- c. If granting the requested accommodation would constitute a fundamental alteration in the HCV program, FVWOP will deny the request.
- d. Each request for an accommodation should be considered as an individual request and should be granted if the particular accommodation requested meets the criteria outlined above and will not constitute a fundamental alteration in itself. The fact that granting an accommodation for one person could set a precedent, and that granting requests by a substantial number of other persons for the same accommodation could have a significant impact on the HCV program shall not constitute a sufficient basis for finding that a particular accommodation constitutes a fundamental alteration.