TABLE OF CONTENTS

1.0 INTRODUCTION.....1

1.1 Organization and Structure of the Caribou Housing Authority 1
1.2 Mission Statement 2
1.3 Caribou Housing Authority Programs 2
1.4. Ethics and Service.....2
1.5 Updating and Revision of the Plan 3
1.6 Right to Privacy 3
1.7 Required Postings 3
1.8 Family/Owner Outreach 4
1.9 Responsibilities and Obligations 5
1.10 Applicable Regulations.....9

2.0 EQUAL OPPORTUNITY.....11

2.1 Nondiscrimination 11
2.2 Reasonable Accommodation 12
2.3 Program Accessibility for Persons with Hearing or Vision Impairments 20
2.4 Physical Accessibility.....20
2.5 Denial/Termination of Assistance 21
2.6 Services for Limited English Proficient Applicants and Participants 21
Exhibit 2.1 Definition of a Person with a Disability under Federal Civil Rights Law 23

3.0 MANAGING THE WAITING LIST AND APPLICATIONS 25

3.1 Opening and Closing the Waiting List 25
3.2 Organization of the Waiting List 25
3.3 Taking Applications.....25
3.4 Accessibility of the Application Process 26
3.5 Placement on the Waiting List.....26
3.6 Family Outreach 27
3.7 Reporting Changes in Family Circumstances.....28
3.8 Purging the Waiting List.....29
3.9 Removal of Applicants from the Waiting List 29

4.0 SELECTION FOR VOUCHER ASSITSANCE 31
4.1 Selection from Waiting List 31
4.2 Targeted Funding 31
4.3 Selection Method 32
4.4 Notification of Selection 34
4.5 The Eligibly Interview 35
4.6 Verification of Preferences 36
4.7 Completing the Verification Process 38

5.0 ELIGILBITY FOR ADMISSION 39
5.1 Family and Household Members 39
5.2 Income Eligibility and Targeting 48
5.3 Citizenship or Eligibility Immigration Status 49
5.4 Social Security Numbers 50
5.5 Family Consent to Release Information 51
5.6 Students Enrolled in Institutions of Higher Education 51
5.7 Denial of Program Assistance 54
5.8 Criminal Records and Background Checks 59
5.9 EIV System Searches 60
5.10 Criteria for Deciding to Deny Assistance 61
5.11 Notice of Eligibility or Denial 62
5.12 Prohibition Against Denial Under VAWA 62
Exhibit 5.1 Detailed Definitions Related to Disabilities 67
Exhibit 5.2 Definition of Institution of Higher Education 71

6.0 VOUCHER BRIEFING, REQUEST FOR APPROVAL OF TENANCY 77
6.1 Voucher Briefing 76
6.2 Family Obligations 82
6.3 Subsidy Standards and Voucher Issuance 90
6.4 Request for Tenancy Approval 95
6.5 Security Deposit 97

7.0 DETERMINATION OF FAMILY INCOME 99
7.1 Annual Income 99
7.2 Assets and Asset Income 105
7.3 Adjusted Income 111
7.4 Earned Income Disallowance 119
Exhibit 7.1 Annual Income Inclusions 121
Exhibit 7.2 Annual Income Exclusions 125
Exhibit 7.3 Treatment of Family Asset 127
Exhibit 7.4 Earned Income Disallowance for Persons with Disabilities 129
Exhibit 7.5 The Effect of Welfare Benefit Reduction 131

8.0 VERIFICATION 135
8.1 Family Consent to Release Information 135
8.2 Timing of Verification 135
8.3 Frequency of Obtaining Verification 136
8.4 Verifying Family Information 136
8.5 Verification of Family Income and Eligibility Deductions 143
8.6 Verifying Income and Assets 147
8.7 Verifying Mandatory Deductions 152
Exhibit 8.1 Summary of Documentation Requirements for Noncitizens 159
Exhibit 8.2 Types and Order of Verifications 161

9.0 RENT REASONABLENESS AND RENT CALCUATIONS 167
9.1 Rent Reasonableness 167
9.2 Calculating Family Share and CHA Subsidy 169

10.0 HOUSING QUALITY STANDARDS.....177
10.1 Types of Inspections 177
10.2 Housing Quality Standards 178
10.3 Additional Requirements 188
10.4 Life-Threatening Conditions 190
10.5 Owner and Family Responsibilities 192
10.6 The Inspection Process 193
10.7 Enforcing Compliance 197
10.8 Special Requirements for Children with Elevated Blood Lead Level ...199
Exhibit 10.1 Overview of HUD Housing Quality Standards 201
Exhibit 10.2 Summary of Tenant Preference Areas Related to Housing Quality Standards 205

11.0 LEASE AND HAP CONTRACT 207
11.1 Tenant Screening 207
11.2 Requesting Tenancy Approval 207
11.3 Owner Participating 209
11.4 Eligible Units 209
11.5 Lease and Tenancy Addendum 211
11.6 Tenancy Approval 213
11.7 Housing Assistance Payment Contract 214
11.8 Changes in Lease or Rent 222

12.0 MOVING WITH CONTINUED ASISTANCE AND PORTABILITY.....223
12.1 Moving with Continued Assistance 223
12.2 Portability 228

13.0 REEXAMINATIONS 233
13.1 Annual Reexaminations 233
13.2 Effective Dates 236
13.3 Interim Reexaminations 237
13.4 Recalculating Family Share and Subsidy Amount 242

14.0 OWNER OR FAMILY DEBTS TO THE CHA 247
14.1 Repayment Policy 247

15.0 GROUNDS FOR TERMINATION OF ASSISTANCE BY CHA 251
15.1 Grounds for Termination of Assistance 251
15.2 Mandatory Policies and Other Authorized Terminations 254
15.3 Approach to Termination of Assistance 262
15.4 Terminations Related to Domestic Violence, Dating Violence, Sexual Assault or Stalking 265

16.0 COMPLAINTS, INFORMAL REVIEW AND INFORMAL HEARINGS 269
16.1 Complaints 269
16.2 Applicant/Tenant Conference 269
16.3 Informal Reviews 269
16.4 Informal Hearings 274
16.5 Hearing and Appeal Provisions for Noncitizens 284
Exhibit 16.1 Statement of Family Obligations 289

17.0 TERMIANTION OF TENANCY BY OWNER 297
17.1 Grounds for Owner Termination of Tenancy 297
17.2 Eviction 299
17.3 Deciding Whether to Terminate Tenancy 299
17.4 Effect of Tenancy Termination on the Family's Assistance 300

18.0 MAINSTREAM VOUCHER PROGRAM 301
18.1 Purpose and Scope 302
18.2 Working with Local Partners 302
18.3 Mainstream Program Definitions 302
18.4 General Requirements and Eligibility 303
18.5 Waiting List Administration and Preferences 304
18.6 Portability 307
18.7 Mainstream Voucher Utilization 307

19.0 FOSTER YOUTH TO INDPENDENCE VOUCHER PROGRAM 311
19.1 Definitions 311
19.2 FYI Eligibility 315
19.3 Partnership Agreement 315
19.4 Responsibilities of each Party 316
19.5 Minimum and Maximum Voucher Requests 317
19.6 Administration of FYI Vouchers 318
19.7 50058 Coding 318
19.8 Continuation of Assistance 319

20.0 HOMEOWNERSHIP 321
20.1 Family Eligibility 321
20.2 Selection of Families 322
20.3 Eligible Units 322
20.4 Additional PHA Requirements for Search and Purchase 323
20.5 Homeownership Counseling 324
20.6 Home Inspections, Contract of Sale and PHA Disapproval of Seller 324
20.7 Financing 325
20.8 Continued Assistance Requirements, Family Obligations 326
20.9 Maximum Term of Homeowner Assistance 327
20.10 Homeownership Assistance Payments and Homeownership Expenses 327
20.11 Portability 329
20.12 Moving with Continued Assistance 329
20.13 Denial or Termination of Assistance 330
20.14 Default 330
20.15 Recapture 330

21.0 MEDICAL MARIJUANA 331
21.1 Admission 331
21.2 Reasonable Accommodation 332
21.3 Medical Expenses Deduction 332
21.4 Current HCV Participants 332
21.5 Termination of Assistance 332
21.6 Definition 332

22.0 SPECIAL HOUSING TYPES 333
22.1 Single Room Occupancy 333
22.2 Congregate Housing 335
22.3 Group Home 336
22.4 Shared Housing 338
22.5 Cooperative Housing 340

23.0 VIOLENCE AGAINST WOMEN ACT 341
23.1 Definitions 341
23.2 Notification 342
23.3 Documentation 343
23.4 Confidentiality 345
Exhibit 23.1 Notice of Occupancy Rights 347
Exhibit 23.2 Certification of Domestic Violence, ... 353
Exhibit 23.3 Emergency Transfer Plan 357
Exhibit 23.4 Emergency Transfer Request 361
Exhibit 23.5 Owner Notification of Rights and Obligations 365

24.0 OWNERS 373
24.1 Owner Recruitment and Retention 373
24.2 Owner Responsibilities 374
24.3 Owner Qualifications 375
24.4 Owner Suspension 377
24.5 Owner Do Not Lease 378
24.6 Non-Discrimination 380

25.0 PROGRAM INTEGRITY 381
25.1 Preventing Errors and Program Abuse 381
25.2 Detecting Errors and Program Abuse 382
25.3 Investigating Errors and Program Abuse 383
25.4 Subsidy Under or Overpayments 384
25.5 Family Caused Errors and Program Abuse 385
25.6 Owner Caused Errors or Program Abuse 386
25.7 CHA Caused Errors or Program Abuse 388
25.8 Criminal Prosecution 388
25.9 Fraud and Program Abuse Recoveries 389

26.0 PROGRAM ADMINISTRATOIN 391
26.1 EIV Reports 391
26.2 Administrative Fee Reserve 392
26.3 Section Eight Management Assessment Program (SEMAP) 393
26.4 Record Keeping 399
26.5 Reporting and Record Keeping for Children with Elevated Blood Lead Level 401
26.6 Determination of Insufficient Funding 402

GLOSSARY 403

1.0 INTRODUCTION

The purpose of this Administrative Plan is to establish guidelines for Caribou Housing Authority to follow in determining eligibility for the HCV Program. This Administrative Plan is drafted pursuant to the requirements of the Department of Housing and Urban Development (HUD), and other state and federal law. At times, the Administrative Plan reflects areas where CHA has exercised its discretion. The policies and procedures included in the Administrative Plan apply to applicants, participants and CHA.

Requirements for this program are incorporated by reference, as follows:

- 24 CFR 5 General HUD Program Requirements Waivers
- 24 CFR 982 Section 8 Tenant-Based Assistance Housing Choice Voucher (HCV) Program
- 24 CFR 984 Section 8 Housing Family Self-Sufficiency Program

Notwithstanding the above, changes in applicable federal law or regulations shall supersede provisions in conflict with this plan.

1.1 ORGANIZATION AND STRUCTURE OF THE CARIBOU HOUSING AGENCY

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by the Caribou Housing Authority for the jurisdiction of City of Caribou and a ten-mile radius, excluding the Town of Fort Fairfield and the City of Presque Isle.

The officials of a Public Housing Authority (PHA) are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

Formal actions of the PHA are taken through written resolutions, adopted by the board of commissioners, and entered into the official records of the PHA.

The principal staff member of the PHA is the executive director (ED), hired and appointed by the board of commissioners. The executive director is directly responsible for carrying out the policies established by the board and is delegated the responsibility for hiring, training, and supervising the PHA staff to manage the day-to-day operations of the PHA. The executive director is responsible for ensuring compliance with federal and state laws and directives for the programs managed. In addition, the executive director's duties include budgeting and financial planning for the agency.

1.2 MISSION STATEMENT

The goal of CHA is to provide decent, safe, and affordable rental housing to families eligible for the voucher program, to promote self-sufficiency and economic independence for its participants.

1.3 CARIBOU HOUSING AUTHORITY PROGRAMS

The following programs are included under this administrative plan:

- Housing Choice Voucher
- Homeownership Voucher
- Mainstream Voucher
- Foster Youth to Independence (FYI)

1.4 ETHICS AND SERVICE

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

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

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

1.5 UPDATING AND REVISION OF THE PLAN

The CHA will revise this administrative plan as needed to comply with changes in HUD regulations, operations or when needed to ensure staff consistence in operation.

Substantive changes to the plan require public hearing and approval of the Board of Commissioners. Whereas, technical and clarification changes do not need Board approval.

Any changes must be included in the Agency Plan, and a copy provided to HUD.

1.6 RIGHT TO PRIVACY

All adult members of applicant and participant households are required to annually sign HUD Form 9886, *Authorization for Release of Information and Privacy Act Notice*. The *Authorization for Release of Information and Privacy Act Notice* states how family information will be released and includes the Federal Privacy Act Statement.

Unless otherwise authorized by law, any request for applicant or participant information will not be released unless there is a signed release of information request from the applicant or participant.

1.7. REQUIRED POSTINGS

CHA will post, in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

a) Income Limits for Admission;

b) Grievance Procedure;

c) Fair Housing Poster;

d) Any current CHA notices; and

e) CHA's SEMAP score and designation.

1.8 FAMILY/OWNER OUTREACH

The CHA will publicize the availability and nature of the HCV Program for extremely low-income, very low and low-income families in a newspaper of general circulation, minority media, and by other suitable means. The notice shall inform such families where they may apply for rental assistance. CHA shall take affirmative actions to provide opportunities to participate in the program to persons who, because of such factors as race, ethnicity, sex of household head, age, or source of income, are less likely to apply for rental assistance. CHA may hold meetings concerning the voucher program with local community agencies.

The CHA will communicate the status of program availability to other service providers in the community and advise them of housing eligibility factors and guidelines so that they can make proper referral of their clients to the program.

The CHA will encourage participation by owners of suitable units located outside areas of low income or minority concentration by distributing and communicating information concerning property owners leasing units under the HCV programs through the local media (newspaper, website, radio, television, etc.).

The CHA will hold briefings for owners who participate in or who are seeking information about the HCV Program. Owners and managers participating in the HCV Program may participate in making this presentation. The briefing will:

a) Explain how the program works;

b) Explain how the program benefits owners;

c) Explain owners responsibilities under the program; and

d) Provide an opportunity for owners to ask questions, obtain written materials, and meet CHA staff.

1.9 RESPONSIBLITIES AND OBLIGATIONS

This section outlines the respective responsibilities and obligations of CHA, HCV Program owners/landlords, and participating families

A. CHA Responsibilities

1.) In administering the HCV Program, CHA will comply with the Consolidated Annual Contributions Contract between CHA and HUD, as it may be amended from time to time; HUD regulations and other requirements; applicable federal, state, and/or local law; and this Administrative Plan. HCV

2.) In administering the HCV Program, CHA will:

a) Publish and disseminate information about the availability and nature of housing assistance under the HCV Program;

b) Explain the HCV Program to owners and families;

c) Seek expanded opportunities for assisted families to locate housing outside areas of poverty or racial concentration;

d) Encourage owners to make units available for leasing in the HCV Program;

e) Affirmatively further fair housing goals and comply with equal opportunity requirements;

f) Make efforts to help people with disabilities find satisfactory housing;

g) Receive applications from families, maintain the waiting list, select applicants, determine eligibility, issue a voucher to eligible families, and provide housing information to families selected;

h) Determine who can live in the assisted unit at admission and during the family's participation in the HCV Program;

i) Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5;

j) Review the family's Request for Tenancy Approval and the owner/landlord lease, including the HUD-prescribed tenancy addendum;

k) Inspect the unit before the assisted occupancy begins and at least bi-annually during the assisted tenancy;

l) Determine the amount of the housing assistance payment for a family;

m) Determine the maximum rent to the owner and whether the rent is reasonable;

n) Make timely housing assistance payments to an owner in accordance with the HAP contract;

o) Examine family income, size, and composition at admission and during the family's participation in the HCV Program, including verification of income and other family information;

p) Establish and adjust CHA utility allowance;

q) Administer and enforce the HAP contract with an owner, including taking appropriate action as determined by the CHA, if the owner defaults (e.g., HQS violation);

r) Determine whether to terminate assistance to a participant family for violation of family obligations;

s) Conduct informal reviews of certain CHA decisions concerning applicants for participation in the HCV Program;

t) Conduct informal hearings on certain CHA decisions concerning participant families;

u) Provide sound financial management of the program, including engaging an independent public accountant to conduct audits;

v) Inform applicants and participants of their rights under the Violence Against Women Act ("VAWA") and notify owners/landlords of their obligations under VAWA.

B. Owner Responsibilities

1.) The owner is responsible for performing all the owner's obligations under the HAP contract and the lease.

2.) The owner is responsible for:

a) 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.

b) Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance.

c) Complying with equal opportunity requirements.

d) Preparing and furnishing to the CHA information required under the HAP Contract.

e) Collecting from the family.

f) Any security deposit required under the lease.

g) The tenant contribution (the part of rent to owner not covered by the housing assistance payment).

h) Any charges for unit damage by the family.

i) Enforcing tenant obligations under the lease.

j) Paying for utilities and services (unless paid by the family under the lease).

k) Providing modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203.

l) Notifying CHA sixty (60) days prior to any rent increase.

C. Participant Obligations

1) Supply required information:

a) The family must supply any information that the CHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR Part 5). Information includes any requested certification, release, or other documentation.

b) The family must supply any information requested by the CHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.

c) The family must disclose and verify Social Security Numbers and must sign and submit consent forms for obtaining information.

d) Any information supplied by the family must be true and complete.

2.) HQS breach caused by the family. The family is responsible for any HQS breach caused by the family or its guests.

3.) Allow CHA inspection. The family must allow the CHA to inspect the unit at reasonable times and after at least 2 days' notice.

4.) Violation of Lease. The family may not commit any serious or repeated violation of the lease.

5.) Family Notice of Move or Lease Termination. The family must notify the CHA and the owner before the family moves out of the unit or terminates the lease by a notice to the owner.

6.) Owner Eviction Notice. The family must promptly give the CHA a copy of any owner eviction notice it receives.

7.) Use and Occupancy of the Unit. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

a) The CHA must approve the composition of the assisted family residing in the unit. The family must promptly inform the CHA of the birth, adoption, or court-

awarded custody of a child. The family must request approval from CHA to add any other family member as an occupant of the unit. No other person(s) may reside in the unit (except for a foster child/foster adult or live-in aide unless CHA approved).

b) The family must promptly notify the CHA if any family member no longer resides in the unit.

c) If the CHA has given approval, a foster child/foster adult or a live-in aide may reside in the unit. CHA has the discretion to adopt reasonable policies concerning residence by a foster child/foster adult or a live-in aide and defining when CHA consent may be given or denied.

d) Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family. Any business uses of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses.

e) The family must not sublease or let the unit.

f) The family must not assign the lease or transfer the unit.

8.) Absence from the Unit

The family must supply any information or certification requested by the CHA to verify that the family is living in the unit, or relating to family absence from the unit, including any CHA requested information or certification on the purposes of family absences. The family must cooperate with CHA for this purpose. The family must promptly notify the CHA of their absence from the unit.

Absence means that no member of the family is residing in the unit. The family may be absent from the unit for up to 30 days. The family must request permission from the CHA for absences exceeding 30 days. CHA will make a determination within 5 business days of the request. An authorized absence may not exceed 180 days. Any family absent for more than 30 days without authorization will be terminated from the program. Authorized absences may include, but are not limited to:

a) Prolonged hospitalization

b) Absences beyond the control of the family (i.e., death in the family, other family member illness)

c) Other absences that are deemed necessary by the CHA

If the reason for the absence is an extended period of hospitalization or nursing home care, the family may request in writing an extension of up to the maximum 180 days allowed by HUD.

If absence extends beyond 180 days, CHA will terminate the Housing Assistance Payment Contract with a thirty (30) day written notice to the landlord.

9.) Interest in the Unit. The family may not own or have any interest in the unit (except for owners of manufactured housing renting the manufactured home space).

10.) Fraud and Other Program Violation. The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

11). Crime by Family Members. The members of the family may not engage in drug-related criminal activity, 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. Under 24 C.F.R. 5.2005(b)(2), criminal activity directly related to domestic violence, dating violence, sexual assault, 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 cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or an affiliated individual of the tenant, as defined in 24 C.F.R. 5.2003, is the victim.

12.) Other Housing Assistance. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program

1.10 APPLICABLE REGULATIONS

Applicable regulations include:

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

2.0 EQUAL OPPORTUNITY

2.1 NONDISCRIMINATION

It is the policy of the CHA to comply fully with all Federal, State and local nondiscrimination laws; the Americans with Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

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

- CHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected classes")
- CHA will not discriminate based on marital status, gender identity or sexual orientation [Notice PIH 02/03/12], Executive Order 13988.

To further its commitment to full compliance with applicable Civil Rights laws, the CHA will provide Federal/State/local information to applicants for and participants in the voucher program discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the CHA office. In addition, all appropriate written information and advertisements will contain the appropriate Equal Opportunity language and logo.

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

CHA will assist any family that believes they have suffered illegal discrimination by providing them with copies of the housing discrimination form. The CHA will also assist them in completing the form, if requested, and will provide them with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

A. Providing Information to Families and Owners

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

B . Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by CHA or an owner, the family should advise CHA. CHA should make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, CHA 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 CHA will:

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

2.) Within 10 business days of receiving the complaint, CHA will provide a written notice to those alleged to have violated the rule. CHA 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).

3.) CHA will attempt to remedy discrimination complaints made against the CHA and will conduct an investigation into all allegations of discrimination.

4.) Within 10 business days following the conclusion of the CHA's investigation, the CHA 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.

5.) The CHA will keep a record of all complaints, investigations, notices, and corrective actions. [PIH Notice 2014-20]

6.) Caribou Housing will refer the family to outside resources if they feel they have been discriminated against by a landlord.

2.2 REASONABLE ACCOMMODATION

CHA is committed to ensuring that its policies and procedures do not deny individuals with disabilities the opportunity to participate in, or benefit from, or otherwise discriminate against individuals with disabilities, on the basis of disability, in connection with the operations of CHA's programs, services and activities.

Therefore, CHA will make reasonable adjustments to its rules, policies, practices, or services when such accommodations may be necessary to afford a participant or applicant with a physical or mental disability the equal opportunity to use and enjoy a dwelling unit, including public and common use areas, unless doing so would result in a fundamental alteration in the nature of the program or an undue financial and administrative burden

- CHA will post a copy of its Reasonable Accommodation Policy in its Administrative Office and on its website.
- Notifications of reexamination, inspection, appointment or eviction will include information about requesting a reasonable accommodation. Any notification requesting action by the participant will include information about requesting a reasonable accommodation.
- All decisions granting or denying requests will be in writing.

CHA 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 CHA, 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. Definitions

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

CHA generally does not provide a reasonable accommodation without a request first having been made. A request does not need to be made in a particular manner or at a particular time. An eligible person does not need to personally make the request; it can be made by a family member or someone else acting on the person's behalf.

The decision to approve or deny a request for a reasonable accommodation is made on a case-by case basis, taking all relevant considerations into account.

Disability Under federal and state law, an individual is considered disabled if they have a physical or mental impairment that substantially limits one or more of their major life activities;

has a record of such an impairment; is regarded as having such an impairment; or under state law, requires special education, vocational rehabilitation or related services.

Physical or mental impairment can include practically any condition, disease, illness, disfigurement or disorder, regardless of severity, including but not limited to: absent, artificial or replacement limbs, hands, feet or vital organs, alcoholism, amyotrophic lateral sclerosis, bipolar disorder, blindness or abnormal vision loss, cancer, cerebral palsy, chronic obstructive pulmonary disease, Crohn's disease, cystic fibrosis, deafness or abnormal hearing loss, diabetes, substantial disfigurement, epilepsy, heart disease, HIV or AIDS, kidney or renal diseases; lupus, major depressive disorder, mastectomy, intellectual disability, multiple sclerosis, muscular dystrophy, paralysis, Parkinson's disease, pervasive developmental disorders, rheumatoid arthritis, schizophrenia and acquired brain injury. Physical or mental impairment does not include psychoactive substance use disorders resulting from current illegal use of drugs.

B. Types of Reasonable Accommodations

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

- Permitting applications and reexaminations to be completed by mail.
- Conducting home visits.
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the CHA 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 CHA staff.
- Approving a live-in aide that is necessary for the care and well-being of a person with a disability.
- Allowing an additional bedroom (e.g. for a live-in aide).
- Rent from a relative if it allows the participant to receive services that he/she may need.
- Port a voucher to live near necessary services or a caregiver.
- Extend or reinstate a voucher.
- Waive a stated deadline to provide information, make a request or a file an appeal of a decision regarding housing assistance.

C. Medical Use of Marijuana in Housing

HUD issued memoranda entitled "*Medical Use of Marijuana in Public Housing*" (September 24, 1999) and "*Medical Marijuana Use in Public Housing and Housing Choice Voucher Programs*" (February 10, 2011) that mandated that all public housing authorities in states where medical marijuana is legalized adopt a policy prohibiting the use and possession of medical marijuana in public housing programs.

- As such, the CHA will not permit the use of medical marijuana as a reasonable accommodation.

D. Request for An Accommodation

1.) Request Received

CHA will provide a "Request for Reasonable Accommodation" ("Request Form") to all applicants, participants and/or individuals who may want to request a reasonable accommodation. Persons requesting an application will receive a Request Form and a Notice of Occupancy Rights under the Violence Against Women Act ("VAWA").

Requests may, however, be submitted in writing, orally or by any other equally effective means of communication. If needed as a reasonable accommodation, CHA will assist the individual in completing the Request Form. It may also be provided in an alternative format, upon request. Within seven (7) days of receipt of a request, CHA will forward the request to the Occupancy Specialist.

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

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

Within ten (10) business days of receipt of a request, CHA will respond, including whether additional information or documentation may be required.

- CHA may notify the individual, in writing, of the need for the additional information/ documentation, with a reply date for submission; or

- Send a request for that verification to the person identified in the Request form, sent within ten (10) business days of the receipt of the request.

2.) Verification of Disability

Before providing an accommodation, CHA 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 CHA's programs and services.

CHA will not require specific details regarding the individual's disability or the nature or extent of the disability.

- If a person's disability is obvious or otherwise known to CHA, 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 CHA, CHA 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 CHA will follow the verification policies below and treat all information received confidential. 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 licensed professional;
  - A peer support group;
  - A non-medical service agency, or
  - A reliable third party who is able to know about the individual's disability.

- The CHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The CHA will not inquire about the nature or extent of any disability.

- Medical records will not be accepted or retained in the participant file.

- If CHA receives documentation that contains an individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the individual's disability, CHA will immediately dispose of this confidential information and note in the individual's file that it received verification of disability, without reference to the specific diagnosis, the date received, and the name and address of the person/organization that provided the

verification. [Notice PIH 2010-26].

3.) Criteria for Granting an Accommodation

CHA considers reasonable accommodation requests based on but not limited to the criteria listed below. CHA considers each request for reasonable accommodation as a separate request. The decision will be made on a case-by case basis with the understanding that each person's needs and circumstances are unique.

a) Does the requestor have a disability? For this purpose, the definition of disability is different than the definition used for admission. The Fair Housing Act defines disability as a physical or mental impairment that substantially limits one or more major life activities. The Supreme Court has determined that to meet this definition a person must have an impairment that prevents or severely restricts the person from doing activities that are of central importance in most peoples' daily lives. (The CHA will not inquire as to the nature of the disability.)

b) Is the requested accommodation necessary for the requestor to be able to live or continue to live in his/her apartment? Specifically, will he/she be forced to relocate if the request is denied?

c) How will the accommodation enable the requestor to use his/her apartment and why would the resident no longer be able to reside in the apartment in the absence of the accommodation?

If more than one accommodation is equally effective in providing access to the CHA's housing programs, CHA retains the right to select the most efficient or economic choice.

If the participant requests, as a reasonable accommodation, that he or she be permitted to make physical modifications to their dwelling unit, at their own expense, the request should be made to the property owner/manager. CHA does not have responsibility for a private owner's unit and does not have responsibility to make the unit accessible.

Any request for an accommodation that would enable a participant to materially violate family obligations will not be approved.

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 certain income disallowances and deductions [HCVG, p. 23].

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 5.403.

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.

4.) ***Approval of Reasonable Accommodation Request(s)*** *[*Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

Within thirty (30) business days of receipt of the request or receipt of all required supporting documentation (including verification of disability and/or need for the requested accommodation), whichever is later, CHA will provide written notification to the participant (or applicant) of its decision on the request. Upon request, the written notification will be provided in an alternate format.

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

a) The request was made by or on behalf of a person with a disability;

b) There is a disability-related need for the accommodation; and

c) 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).

All requests that are approved will be implemented promptly.

Alternative Accommodation

If CHA receives additional information or documentation, but it believes that the request is not reasonable (i.e., it would impose an undue financial or administrative burden or it would fundamentally alter the nature of CHA's programs), CHA will engage in an interactive process with the individual where they will discuss whether there is an alternative accommodation that would effectively address the individual's disability-related needs that is reasonable.

- If the alternative accommodation would effectively meet the individual's disability-related needs and is reasonable, CHA will grant it.

- If there is not such an alternative accommodation, however, CHA may deny the request. In denying the request, CHA will inform the individual of the reason(s) for the denial and the right to request a meeting and/or hearing pursuant to CHA's Grievance Policy.

5.) Denial of Reasonable Accommodation Request(s) [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26]

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

Requested accommodations will not be approved if:

a) There is no disability;

b) There is no disability-related need for the accommodation;

c) Granting the requested accommodation would result in violation of state and/or federal law;

d) Granting the requested accommodation would cause:

i. A fundamental alteration in the nature of CHA's public housing program;

ii. An undue financial burden on CHA; or

iii. An undue administrative burden on CHA.

e.) If additional information or documentation is required and CHA does not receive this information or if the information or documentation does not establish that the individual is disabled or needs the accommodation, the request will be denied.

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

CHA will not permit the use of medical marijuana as a reasonable accommodation

6.) Right to Appeal/Grievance Policy

If CHA denies a request for an accommodation because it is not reasonable, or it would impose an undue financial and administrative burden or fundamentally alter the nature of CHAs program, CHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

An HCV Program participant or applicant may file a complaint in accordance with CHA's Grievance Procedure following a determination by CHA

2.3. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS [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.

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 CHA staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are:

- Having material explained orally by staff; or
- Having a third-party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

CHA strongly discourages the use of friends or relatives to interpret and explain materials because of issues of confidentiality, privacy, and conflict of issues. If the person with a hearing impairment uses a friend or relative to interpret and explain the materials, CHA reserves the right to have an interpreter of its choice present.

CHA will make its best effort to provide timely communication assistance. If an alternative form of communication is not requested in advance or the requested assistance is not available when needed, the process may be delayed

2.4 PHYSICAL ACCESSIBILITY

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

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988
- Maine Human Rights Act

When issuing a voucher to a family that includes an individual with disabilities, the CHA will include a current list of available accessible units known to the CHA 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.

2.5 DENIAL/TERMINATION OF ASSISTANCE

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

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

2.6 SERVICES FOR LIMITED ENGLISH PROFICIENT (LEP) APPLICANTS AND PARTICIPANTS

The CHA 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.

A. Oral Interpretation

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

- CHA will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote briefings, informal reviews, or hearings, however, the PHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

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

CHA strongly discourages the use of friends or relatives to interpret because of issues with confidentiality, privacy, and conflict of interest. If the LEP person uses a friend or relative to interpret and explain the materials, CHA reserves the right to have an interpreter of its choice present.

- If the interpreter chosen by the family is a minor, the CHA will not rely on the minor to serve as the interpreter.

B. Written Translation

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

In order to comply with written-translation obligations, the CHA will use the forms translated by HUD on www.hudclips.org.

C. Implementation Plan

CHA serves very few LEP persons; therefore, does not need to develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

2.7 EMERGENCY CONTACT

CHA must notify the family of their right to provide an emergency contact and give the family an opportunity to provide the emergency contact. CHA may use HUD-92006, *Supplement to Application for Federally Assisted Housing*, to meet this requirement. The family is not required to provide an emergency contact and may choose to check the box at the bottom of the form "Check this box if you choose not to provide the contact information.

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.

3.0 MANAGING THE WAITING LIST AND APPLICATIONS

3.1 OPENING AND CLOSING THE WAITING LIST

CHA has joined the Section 8 Maine Centralized HCV/HCV Waiting List, which is continuously open.

The notice will state that applicants already on waiting lists for other housing programs must apply separately for this program, and that such applicants will not lose their place on other waiting lists when they apply for HCV. The notice will include the Fair Housing logo and slogan and otherwise be in compliance with Fair Housing requirements

Reopening the Waiting List

The Centralized Waiting List for the HCV Program cannot be opened by CHA. That function is decided by the owner of the system in consultation with all participating housing authorities.

3.2 ORGANIZATION OF THE WAITING LIST

The waiting list will be maintained in accordance with the following guidelines:

a) The application will be a permanent file;

b) All applications will be maintained in order of local and family preference, date, and time; and

c) Any contact between the CHA and the applicant will be documented in the applicant file.

Note: The waiting list will not be maintained by bedroom size.

3.3 TAKING APPLICATIONS [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]

Families wishing to apply to the HCV Program will be required to complete an application for assistance. Applications will be accepted from all applicants. Applications will be made available in an accessible format upon request from a person with a disability.

Families may obtain application forms from CHA's Administrative Office, located at 25 High Street, Caribou Maine during regular business hours. Applications will be accepted at CHA's Administrative Office during regular business hours**.** Applicants can apply online anytime at https://mainesection8centralwaitlist.org/dup/.

Persons with disabilities who require a reasonable accommodation in completing an application may call CHA to make special arrangements to complete their application

The application process will involve two phases.

1.) The first phase is the initial application for housing assistance or the pre-application. The pre-application requires the family to provide limited basic information including name, address, phone number, family composition and family unit size, racial or ethnic designation of the head of household, income category, and information establishing any preferences to which they may be entitled. This first phase results in the family's placement on the waiting list.

- The completed application will be dated, and time stamped upon its return to CHA.

Upon receipt of the family's pre-application, CHA will make a preliminary determination of eligibility. CHA will notify the family in writing of the date and time of placement on the waiting list. If CHA determines the family to be ineligible, the notice will state the reasons therefore and offer the family the opportunity of an informal review of this determination.

An applicant may at any time report changes in their applicant status including changes in family composition, income, or preference factors. This can be done on the website or with an applicant change form. CHA will annotate the applicant's file and will update their place on the waiting list.

2.) The second phase is the final determination of eligibility, referred to as the full application. The full application takes place when the family nears the top of the waiting list. CHA will ensure that verification of all preferences, eligibility, suitability selection factors are current to determine the family's final eligibility for admission into the HCV Program.

All applicants and/or families already on a waiting list will be provided with the option of having their names placed on all open waiting lists maintained by CHA. If CHA adds new programs, such as a project-based voucher program, CHA will notify existing participants and new applicants by utilizing the same means it would use in opening its waiting list under 24 CFR §982.206(a) such as by (1) advertising through the internet; (2) local postings at CHA; and (3) outreach to social service organizations that may serve the same clientele that will be occupying the PBV units. Please note that CHA will not notify each family on the tenant-based waiting list by individual notice.

- Applicants must notify CHA, in writing, if their address changes during the application process.

3.4 ACCESSIBILITY OF THE APPLICATION PROCESS

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

CHA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal standard CHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). CHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the CHA will provide an alternate approach that provides full access to the application process.

- To provide specific accommodations for persons with disabilities, a staff person may complete the information for the applicant by hand or online.

3.5 PLACEMENT ON THE WAITING LIST

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

A. Ineligible for Placement on the Waiting List

CHA will not deny receipt of an HCV preliminary application unless CHA has knowledge the person is registered on a Life-Time Sex Offender List or has been convicted of drug-related criminal activity for the manufacture of methamphetamines on the premises of federally assisted housing.

Where a family is determined to be ineligible, CHA 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.

B. Eligible for Placement on the Waiting List

The applicant confirmation of receipt of application may be sent by mail, or by email from Housing Data Link of Maine, LLC because of the applicant utilizing the online Centralized Waiting List System.

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 the CHA.

‘

3.6 FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

CHA will conduct outreach as necessary to ensure that the CHA has enough applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the CHA to admit a specified percentage of extremely low-income families to the program, CHA 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].

CHA 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.

CHA 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.

3.7 REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the Centralized Waiting List for a voucher, the family must immediately inform any participating housing authority of changes in contact information, including current residence, mailing address, email address, and phone number. The changes may be submitted to that participating housing authority in writing by completing a Change of Information form or entered by the family on the designated secure website for applications.

3.8 PURGING THE WAITING LIST [24 CFR 982.204]

At a minimum every three years, Housing Data Link of Maine will send a letter to the most recently provided mailing address on the HCV Preliminary Application. The letter will request the applicant to respond to the mailing, either online or by mailing back the response letter, within a timeframe set forth in the letter. The letter will also indicate that failure to respond may result in the removal of the applicant's name from the Waiting List.

If the applicant does not respond within the applicable timeframe, his/her name will be removed from the Waiting List. This purge of the Waiting list will be conducted according to the HUD policy.

3.9 REMOVAL OF APPLICANTS FROM THE WAITING LIST

The CHA will not remove an applicant's name from the waiting list unless:

a) The applicant requests that the name be removed;

b) The applicant fails to respond to a written request for information or a request to declare their continued interest in the program or misses scheduled appointments; or

c) The applicant does not meet either the eligibility or screening criteria for the program.

If at any time an applicant family is on the waiting list, the CHA determines that the family is not eligible for assistance, the family will be removed from the waiting list.

If a family is removed from the waiting list because the CHA has determined 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 regarding the CHA's decision [24 CFR 982.201(f)].

In removing an applicant from the waiting list, CHA will not violate the rights of a disabled person(s). If an applicant's failure to respond was due to their disability, CHA will provide reasonable accommodations and give the applicant an opportunity to respond.

4.0 SELECTION FOR VOUCHER ASSISTANCE

4.1 SELECTION FROM WAITING LIST

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

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

4.2 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. 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

The CHA administers the following types of targeted funding:

- Mainstream – Non -Elderly Disabled
- Foster Youth to Independence (FYI) Vouchers – Once FYI Voucher terms have been expended CHA may provide regular vouchers to participant in this program who demonstrate continued need.

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 policies.

4.3 SELECTION METHOD

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

1) CHA will select families for participation based on residency and the date and time of the application.

2) Jurisdiction. CHA will offer a priority to any individual or family who (a) resides; (b) goes to school, or (c) works in Caribou's jurisdiction.

3) **Insufficient Program Funding**. CHA will offer a priority to any family that has been terminated from the HCV program due to insufficient program funding.

4.) Displaced by Natural Disaster. CHA will offer a preference to any family who has been displaced by a natural disaster.

5.) Displaced by Government Action. CHA will offer a preference to any family who has or will be displaced due to Government action.

6.) VAWA. CHA will offer a preference to any individual or family who has been displaced because of fleeing violence or is currently living in a situation where they are being subjected to or victimized by violence in the home.

7.) Veterans. CHA will offer a preference to any individual or family that includes a veteran of the armed forces.

8.) Mainstream. CHA will offer a preference to any individual or family that includes a person between the age of 18-61 and is a person with disabilities.

9.) Foster Youth to Independence CHA will offer a preference to FYI recipients who have successfully completed 36 months with the FYI Program mand can demonstrate an ongoing need for assistance.

Point System

The Points given to each preference are listed below. A family may receive points for more than one preference.

Preferences	Points
Jurisdiction	1,500
Displaced by Natural Disaster	100
Displaced by Government Action	100
Displaced by Natural Disaster/Government Action	100
VAWA	10
Veteran	10
Mainstream	10
Foster Youth to Independence	10

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

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during the CHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher. To ensure this requirement is met, CHA may skip non-ELI families on the waiting list to select an ELI family.

- If there are not enough ELI families on the waiting list, CHA shall conduct a special outreach to attract ELI families to the program to meet the statutory requirements

C. Order of Selection

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 CHA's hierarchy of preferences. 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 CHA [24 CFR 982.207(c)]

If CHA 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)].

4.4 NOTIFICATION OF SELECTION [24 CFR 982.554(a)]

A. Notice to Applicant

When a family has been selected from the waiting list, the CHA will notify the family by first class mail. The notice will inform the family of the following:

1) Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview;

2) Who is required to attend the interview;

3) The full application for the family to complete and return; and

4) All documents that must be provided at the interview, including information about what constitutes acceptable documentation

B. Notification Letter Returned

If a notification letter is returned to the CHA with no forwarding address, the family will be removed from the waiting list.

If the letter was returned to CHA and the applicant can provide evidence that they were living at the address to which the letter was sent, the applicant will be reinstated with the date and time of the application in effect at the time the letter was sent.

C. Notification Not Received

If an applicant claims they did not receive a letter mailed by CHA, that requested the applicant to provide information or attend an interview, a determination will be made as to whether the letter was returned to CHA. If the letter was not returned, the applicant will be assumed to have received the letter.

D. Documentation Not Returned to CHA

If the notification letter nor the Tenant Information Form is not returned, and the family has not contacted CHA, prior to the application interview date CHA will assume that the family is no longer interested and the family will be removed from the waiting list. A notice of denial will be sent to the family's address of record, as well as to any known alternate address

E. Documentation Returned to CHA After Deadline

If the family returns the required documents, *after* the initial deadline, without CHA approval, they will be mailed a letter of denial and be offered to be placed back on the waiting list (according to preferences, date, and time).

4.5 THE ELIGIBILTIY INTERVIEW [HCV GB, pg. 4-16]

A. Types of Interviews

1.) In Person

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information of adult members who were not present at the interview, will not begin until signed release forms are returned to the CHA.

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

2.) By Mail

During pandemics (or other circumstances beyond CHA's control), families selected from the waiting list are not required to participate in an eligibility interview. Families will be required to complete eligibility paperwork via mail, fax, email. Verification of information pertaining to adult members of the household will not begin until signed release forms are returned to the CHA.

If the family fails to submit any required documents, *within* the initial deadline, without CHA approval, will be denied assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued in accordance with policies.

B. Required Documentation

If the family representative does not provide the required documentation at the time of the first interview/deadline, he or she will be required to provide it within 10 business days.

- Pending disclosure and documentation of social security numbers, the CHA will allow the family to retain its place on the waiting list for ***30 days***. If not, all household members have disclosed their SSNs at the next time the CHA is issuing vouchers, the CHA will issue a voucher to the next eligible applicant family on the waiting list.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, and must complete all required forms, provide

required signatures, and submit required documentation. If any materials are missing, the CHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial.

C. Accommodations

- Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.
- An advocate, interpreter, or other assistant may assist the family with the application and the interview process.
- Interviews will be conducted in English. For limited English proficient (LEP) applicants, the CHA will provide translation services in accordance with the CHA's LEP plan.

4.6 VERFICATION OF 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 CHA's hierarchy of preferences, if applicable.

A. Residency Preference

If the applicant claimed a residency preference on their original or updated application, residency preference verification documentation must be received by Caribou Housing at the time the applicant is pulled from the waiting list.

Proof that the head of household, spouse, or co-head currently lives in the County:

- A copy of a valid driver's license which includes a current address.
- A copy of a valid state ID card which includes a current address.
- A valid Social Security printout letter which includes a current address.
- A copy of a valid voter's registration card which includes a current address.
- A letter from the Homeless Shelter.

Proof that the head of household, spouse, or co-head currently works in the County:

- A letter from the employer stating the applicant is employed in the County.
- A letter from the employer stating the applicant will be employed in the County.

- A copy of a valid paycheck stub with the employer's address showing the business is in the County.

B. Involuntary Displaced by Natural Disaster or Government Action

If the applicant claimed an Involuntary Displaced preference on their original or updated application, involuntary displaced verification documentation must be received by Caribou Housing at the time the applicant is pulled from the waiting list.

Proof that that the head of household, spouse, or co-head has been involuntary displaced

- A letter from the local Code Enforcement Office and/or local Fire Department, stating that their unit was or has been found inhabitable because of a disaster, such as a fire or flood.

C. VAWA

If the applicant claimed a domestic violence preference on their original or updated application, domestic violence verification documentation must be received by CHA at the time the applicant is pulled from the waiting list.

1) The domestic violence must have occurred recently or be of a continuing nature.

2.) The applicant must verify domestic violence status via a HUD-approved certification form (HUD-50066) and other documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the actual or threatened abuse.

3.) The certifications must include the name of the perpetrator and be provided within 14 business days after the individual receives the request to verify from the CHA.

4.) An applicant who qualifies for the preference must certify that the person who engaged in the violence will not reside with the applicant family. If the family is admitted, the CHA may deny or terminate assistance for breach of the agreement.

D. Veteran Preference

If the applicant claimed a veteran preference on their original or updated application, veteran preference verification documentation must be received by CHA at the time the applicant is pulled from the waiting list.

A copy of the applicant's, spouse, or co-head DD-214 is required. Veteran preference is granted if the DD-214 states "Honorably Discharged"

If the family no longer qualifies to be at the top of the list, the family's name will be returned to the appropriate spot on the waiting list. CHA will notify the family in writing of this determination and give the family the opportunity for an informal review.

E. Mainstream Voucher

If the applicant claimed a disability preference for the head of household, spouse, or co-head at the time the applicant was received, documentation must be received by the CHA.

The family needs to provide one or more the following:

1.) Is currently experiencing homelessness; or

2.) At risk of experiencing homelessness; or

3.) Transitioning out of institutional/segregated settings; or

4.) At serious risk of institutionalization; or

F. Foster Youth to Independence

An applicant can only receive an FYI voucher, after they have been referred to CHA from DHHS.

4.7 COMPLETING THE APPLICATION PROCESS

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

If CHA determines that the family is ineligible, the CHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility and will inform the family of their right to request an informal review.

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g., targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. The CHA will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

If the CHA determines that the family is eligible to receive assistance, the CHA will invite the family to attend a briefing in accordance with the policies.

5.0 ELIGIBILTY FOR ADMISSION

CHA must ensure that every individual, including any individual who is requested to join a family after the family has been admitted, and family admitted to the HCV Program meets all eligibility requirements. The eligibility requirements for a family are:

1) Qualify as a family;
2) Has an income within the HUD-specified income limits;
3) Qualifies on the basis of citizenship or eligible immigration status;
4) Provides Social Security Number for household members;
5) Signs required consent forms,
6) Signs a criminal background consent form;
7) Qualifies under EIV "Existing Tenant Search"; and
8) Not currently be receiving a duplicate subsidy.

5.1 FAMILY AND HOUSEHOLD MEMBERS [24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20]

The terms *family* and *household* have different meanings in the HCV program.

A. Family

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family.

B. Household

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

Household members will appear on the voucher but do not qualify as remaining family members to assume the voucher.

C. Definitions of Family and Household Members

1.) Head of Household [24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all its responsibilities under the program, alone or in conjunction with a cohead or spouse.

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

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

2.) Spouse, Cohead and Other Adult

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

Spouse means the marriage partner of the head of household.

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

A *cohead* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all its responsibilities under the program, but who is not a spouse. A family can have only one cohead.

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

All adult members (spouse, cohead, other adults) is responsible for ensuring that the family fulfills all its responsibilities under the program.

3.) Dependent [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a dependent allowance.

a.) Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 51 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the CHA will make the determination based on available documents. The custody arrangement may be verified through:

i. IRS record, showing which family has claimed the child for income tax purposes;

ii. Court Dockets;

iii. Department of Health & Human Services;

iv. School Department;

v. 3rd party certification from parents, notarized; or

vi. Other documentation as CHA sees fit.

4.) Full-Time Student [24 CFR 5.603; HCV GB, p. 5-29]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent allowance, and (2) the earned income of such an FTS is treated differently from the income of other family members.

5.) Elderly and Near-Elderly Persons and Elderly Family [24 CFR 5.100 and 5.403, FR Notice 02/03/12]

*Elderly Persons***,** a person who is at least 62 years of age.

Near-Elderly Person, a person who is 50-61 years of age.

Elderly Family is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance.

6.) Persons with Disabilities and Disabled Family [24 CFR 5.403, FR Notice 02/03/12]

a.) Persons with Disabilities

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

b). Disabled Family

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

Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent the CHA from denying assistance for reasons related to alcohol and drug abuse in accordance with the policies, or from terminating assistance.

7.) Guests [24 CFR 5.100]

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

- A guest can remain in the assisted unit no longer than *14 consecutive days or a total of 30 cumulative calendar days during any 12-month period*.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 51 percent of the time, are not subject to the time limitations of guests as described above.

- Children who attend college or trade school but may come home for the summer and during breaks are not subject to the time limitations of guests as described above

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

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes a violation of the lease.

When CHA is determining whether a person should be considered a guest or a household member, the following items apply:

- Statements from the landlord, neighbors, DHHS workers, Police reports, letter from local Post Office, or other documentation would be considered in making the determination that a person is residing in the unit or other documentation as CHA sees fit.

- Absence of evidence of any other address is considered verification that the visitor/guest is a member of the household. Further, use of the unit address as the visitor/guest's current residence for any purpose not explicitly temporary, i.e. voter's registration, driver's license, vehicle registrations, lease, mortgage payment, most recent copy of utility bill etc., is construed as evidence of permanent residence, or other documentation as CHA sees fit.

- The burden of proof that an individual is a visitor and not an unauthorized household member, will rest upon the household. In the absence of such proof, the individual will be considered an unauthorized member of the household and the CHA may terminate assistance since prior approval was not requested for the addition

8.) Foster Children and Foster Adults

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

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

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401. If the addition of a foster child would result in an HQS violation, the CHA may approve an increase in the family's voucher size based on the existing subsidy standards.

9.) Absent Family Members

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

Temporarily absences of individual family members for more than 30 days within a 45-day period must be approved by Caribou Housing.

a.) Definitions of Temporarily and Permanently Absent

An individual who is or is expected to be absent from the assisted unit for *30 consecutive days or less* is considered temporarily absent and continues to be considered a family member.

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.

b.) Absence Due to Incarceration

If any member of the family (including the head of household or sole member), is incarcerated for more than 30 consecutive days, the member may be considered permanently absent. CHA will determine the reason for incarceration and may take necessary steps to terminate assistance

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

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

If a child has been placed in foster care, CHA 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 case plan indicates family reunification, the absence will not be considered permanent.

d.) Absent Students

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

- For subsidy standards, the temporary absent child will be counted as a family member.

CHA does not consider dorms or student designated housing as separate households.

e.) Absent Head, Spouse, or Cohead

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

- This can include military deployment.

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

The CHA will request verification of the family member's permanent absence from a responsible medical professional.

- If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent.
- If the family certifies that the family member is confined on a permanent basis, they may present, and the CHA will consider, any additional documentation or evidence and the income of that person is not counted [HCV GB, p. 5-22].
- An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

g.) Return of Permanently Absent Family Members

The family must request CHA approval for the return of any adult family members that the CHA previously determined to be permanently absent. The individual is subject to the eligibility and screening requirements.

10.) Family Breakup and Remaining Member of Tenant [24 CFR 982.315; Notice PIH 2017-08]

a.) Family Breakup.

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

If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking.

If a court determines the disposition of property between members of the assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance.

i. In the absence of a judicial decision or an agreement among the original family members, the CHA will determine which family will retain their placement on the waiting list or continue to receive assistance.

ii. In making its determination, the CHA will take into consideration the following factors:

(a) The interest of any minor children, including custody arrangements;

(b) The interest of any ill, elderly, or disabled family members;

(c.) The interest of any family member who is the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse;

(d) Any possible risks to family members as a result of criminal activity; and

(e.)The recommendations of social service professionals

b.) Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family,* which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see policy on "Caretakers for a Child."

11.) Live-in Aide

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

The CHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities. A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member.

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

CHA has the right to disapprove a request for a live-in aide based on the screening criteria to CHA will not approve a person as a live-in aide, if that person does not meet applicant's eligibility criteria [24 CFR 982.316(b)]:

a.) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

b.) The person commits drug-related criminal activity, violent criminal activity; or a criminal activity; or

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

d.) The person has violated any Family Obligations under the program as published under 24 CFR 982.551; or

e.) The person has been identified as someone who must registers as a lifetime sex offender;

f.) The person has failed to provide documentation to permit the CHA to conduct the required screening.

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

Families must report when the live-in aide is no longer part of the household within 10 business days of the event. The family will be allowed 60 days to search for, select, and have CHA approve a replacement live-in aide.

The CHA has the right to downsize the family's voucher if it is determined that the live-in aide is no longer residing in the unit.

5.2 INCOME ELIGIBILITY AND TARGETING

A. Income Limits [24 CFR 5.603(b)]

To be eligible to receive assistance a family shall, at the time of the family initially receives assistance under HCV Program shall be a family that is:

- *Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
- *Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
- *Extremely low-income family.* A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

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

Income limits apply only at admission and are not applicable for continued occupancy; however, as income rises the assistance will decrease. [24 CFR 982.201]

1) The applicable income limit for issuance of a voucher is the highest income limit for the family size for areas CHA's jurisdiction. The applicable income limit for admission to the program is the income limit for the area in which the family is initially assisted in the program. The family may only use the voucher to rent a unit in an area where the family is income eligible at admission to the program.

2) Families who are moving into CHA's jurisdiction under portability and have the status of applicant rather than of participant at their initial CHA, must meet the income limit for the area where they were initially assisted under the program.

3) Families who are moving into CHA's jurisdiction under portability and are already program participants at their initial CHA do not have to meet the income eligibility requirement for CHA's program.

4) Income limit restrictions do not apply to families transferring units within CHA's HCV Program.

B. Using Income Limits for Targeting [24 CFR 982.201]

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

5.3 CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

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

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

A. Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status.

- Those who elect not to contend their status are ineligible noncitizens.
- For citizens, nationals, and eligible noncitizens the *Declaration of Section 214* form must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors.
- The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below).
- No declaration is required for live-in aides, foster children, or foster adults.

B. U.S. Citizens and Nationals

Family members who declare citizenship or national status will be required to provide a birth certificate or passport

C. Eligible Noncitizens

Eligible noncitizens must submit the signed declaration, as well as, the required documentation listed on the "Declaration of Section 214 Status" form that applies to the status they are declaring.

D. Mixed Families

A family is eligible for assistance if at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*.

Such families will be given notice that their assistance will be prorated, and that they may request a hearing if they contest this determination.

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

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

When a CHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the CHA. The informal hearing with the CHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

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

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

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

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

5.4 SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]

To be eligible, all family members 6 years of age and older must provide a Social Security number or certify that they do not have one.

The CHA will verify social security numbers with documentation containing the applicant's social security number including the actual social security card and or letters from the Social Security Administration.

If a family member, over the age of six, does not have a social security number, the member must sign a certification that he or she does not have one. If the family member is a minor, a parent or guardian must sign the certification. The certification should:

a.) State the individual's name;

b.) State that the individual has not been assigned a social security number;

c.) State that the individual will disclose the number if he or she later gets one; and

d.) Be signed and dated.

5.6 FAMILY CONSENT TO RELEASE INFORMATION [24 CFR 5.230; HCV GB, p. 5-13]

To be eligible each member of the family who is at least 18 years of age, and each family head and spouse regardless of age, shall sign HUD 9866, *Authorization for the Release of Information/Privacy Act Notice,* the form HUD 52675 *Debts Owed to Public Housing Agencies and Terminations,* and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. The CHA may collect information from State Wage Information Collection Agencies (SWICAs), current and former employers of adult family members and financial institutions.

- Form HUD-9886 expires 15 months after the date it was signed.
- Form HUD-9886 must be signed at each regularly scheduled reexamination.

Adult family members, and the head, spouse and cohead must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. If a family member fails to sign a consent form, the CHA will deny admission to applicants, or in the case of recertifications, will terminate assistance. If admission is denied, or assistance terminated, the family will be informed of their right to a hearing.

Documents establishing eligibility must be not more than 60 days old on the date of the initial voucher issuance.

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

The following restrictions have been established for those students who are seeking assistance on their own, separately from their parents. The restriction on Section 8 assistance only applies to individuals who:

a) Are enrolled at an institution of higher education;

b) Are under the age of 24;

c) Are not veterans;

d) Are not married; and

e) Does not have a dependent child.

Students meeting these criteria are subject to a two-part income eligibility test. Both the student and the student's parents (individually or jointly) must be income eligible for the student to be eligible to receive Section 8 assistance.

If a student meeting these criteria is determined to be independent from his/her parents' accordance with CHA policy, the income of the student's parents will not be considered in determining the student's eligibility.

A. Definitions

The following definitions apply to the student rule restrictions:

- *Dependent Child*: means a dependent child of a student enrolled in an institution of higher education and must be a member of the assisted family, other than the head of household or spouse, who is under the age of 18, is a person with a disability, or is a full-time student. Foster Children and foster adults are not considered dependents.

- *Independent Student*: a student who meets one or more of the following criteria:

    1) Has established a household separate from his/her parents for at least one year prior to application

    2) Be at least 24 years old by December 31 of the year for which aid is sought;

    3) Be an orphan or a ward of the court through the age of 18;

    4) Be a veteran of the U.S. Armed Forces;

    5) Have legal dependents other than a spouse (for example, dependent children or an elderly dependent parent);

    6) Be a graduate or professional student; or

    7) Be married.

- *Institution of Higher Education*: the definition for this purpose will be the definition in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002. In summary, colleges and universities that are accredited and some postsecondary vocational schools. (see Federal Register, 4/10/06, pages 18149-18150 for a complete definition)

- *Parents*: means the biological or adoptive parents, or guardians (e.g. grandparents, aunt/uncle, godparents, etc.).

- *Student*: means all students enrolled either full-time or part-time at an institution of higher education.

- *Veteran*: means a person who served in the active military, naval, or air service, and who was discharged or released other than dishonorable.

- *Financial Assistance*: any financial assistance that a student receives in excess of tuition (e.g., athletic and academic scholarships, 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) will be included in annual income. Financial assistance does not include loan proceeds.

- *Assistance from Private Sources*: means non-governmental sources of income that may be provided to a student from a parent, guardian, or other family member and will be included in annual income.

B. Verifying Student Independence

CHA can 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 the following verification standards:

1.) Reviewing and 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 to determine whether the student meets the U.S. Department of Education's definition of independent student.

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

3.) Verifying income provided by a parent, in a written certification by the parent, even if the amount of support is $0.

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 independent from his/her parents, the CHA must verify income of the parents to determine whether the student is eligible for assistance.

C. Parental Income

1) To verify parental income, the CHA will accept a declaration and certification of income, which includes a penalty of perjury. If the CHA determines the declaration, certification and eligibility of the parent is in question, the CHA will request and review supporting documentation. Supporting documentation includes, but is not limited to, IRS tax returns, consecutive and original pay stubs, TANF award letter, SSA award letter, and other official and authentic documents from a federal, state, or local agency.

2) If the parents are married and living together, a joint declaration and certification of income will be obtained for review (if the parent is widowed or single, obtain the declaration and certification from that parent) .

3) If the parents are divorced or separated, a declaration and certification of income from each parent will be obtained for review.

4) If the student has been living with one of his/her parents and has not had contact with or does not know where to contact his/her other parent, a certification under penalty of perjury describing the circumstances and stating the student has not received financial assistance from the other parent must be signed by the student. This will be reviewed with the declaration and certification of income from the parent the student has been living with to determine the student's eligibility for assistance.

The CHA will use the low-income limit for the jurisdiction in which the parents live when determining the income eligibility of the student's parents.

5.7 DENIAL OF PROGRAM ASSITANCE

Denials fall into two categories: those that HUD requires (mandatory) and those that housing authorities determine (permissible).

A. HUD Mandatory Denials of Eligibility

1.) Family does not meet the social security number disclosure, documentation, and certification requirements.

1) Family does not submit evidence of citizenship or eligible immigration status based on noncitizen rules and regulations.

2) If any member fails to sign consent forms for obtaining information.

3) The family does not meet income eligibility requirements.

4) Any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education.

C. HUD Mandatory Denials of Assistance [24 CFR 982.553(a)]

1.) Any member of the household has been evicted from federally assisted housing in the last three-years for drug-related criminal activity.

a) However, if the CHA determines the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised rehabilitation program approved by the CHA, or the circumstances leading to the eviction no longer exist (the member is no longer in the household), the CHA may admit the household.

2.) The CHA determines that any household member is currently engaged in the use of illegal drugs, including the distribution, possession, sale or use in violation of the Controlled Substance Act (21 USC 801, et seq., 841)

a.) The CHA will determine if a household member is "currently engaged" with illegal drugs if the person engaged in the behavior within the past twelve (12) months.

b.) Illegal drugs include medical and recreational marijuana

c.) However, if the CHA determines household member engaged in the behavior has successfully completed supervised rehabilitation program or is currently participating in a supervised rehabilitation program approved by the CHA, the CHA may admit the household.

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

a.) The CHA will determine if a household member is "currently engaged" with illegal drugs if the person engaged in the behavior within the past twelve (12) months.

b.) However, if the CHA determines household member engaged in the behavior has successfully completed supervised rehabilitation program or is currently participating in a supervised rehabilitation program approved by the CHA, the CHA may admit the household.

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

a.) The CHA will determine if a household member is "currently engaged" with alcohol if the person engaged in the behavior within the past twelve (12) months.

b.) However, if the CHA determines household member engaged in the behavior has successfully completed supervised rehabilitation program or is currently participating in a supervised rehabilitation program approved by the CHA, the CHA may admit the household.

5.) Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

a.) This denial is immediate and lifetime.

6.) Any household member is subject to a lifetime registration requirement under a state sex offender registration program

a.) This denial is immediate and lifetime

"Currently engaged" is defined as any use of the activity during the current and previous twelve (12) months.

A pattern (for the purposes listed above) consist of three or more incidences, with a minimum of two incidences occurring within twelve months.

D. Permissive Denials of Assistance

Criminal Activity [24 CFR 982.553]

CHA will deny assistance if the CHA determines that any household member is currently engaged in or has engaged in any of the following criminal activities within five (5) years of being pulled from the Waiting List.

1.) *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug ; as defined in Section 802 of the Controlled Substances Act [21 USC 802] [24 CFR 5.100].

a.) However, if the CHA determines household member engaged in the behavior has successfully completed supervised rehabilitation program or is currently participating in a supervised rehabilitation program approved by the CHA, the CHA may admit the household.

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

a.) Including, but not limited to arson , assault, aggravated assault, assault by threat, crime of a sexual nature, domestic violence, kidnapping, murder, manslaughter, property destruction or rape.

b.) However, CHA may reconsider the applicant if there is sufficient evidence that members of the household are not currently engaging in such activity or have not engaged in such activity during a reasonable period prior to admission. "Sufficient evidence" is a notarized certification by a household member with supporting documentation (verified by CHA) from a probation officer, social service agency worker, or criminal records.

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

a.) However, CHA may reconsider the applicant if there is sufficient evidence that members of the household are not currently engaging in such activity or have not engaged in such activity during a reasonable period prior to admission. "Sufficient evidence" is a notarized certification by a household member with

supporting documentation (verified by CHA) from a probation officer, social service agency worker, or criminal records

4.) Criminal activity that includes, but not limited to burglary, disturbing the peace, extortion, fraud, gang affiliation, larceny, prostitution or soliciting for prostitution, public lewdness, shoplifting, theft, unlawful entry, vandalism

a.) However, CHA may reconsider the applicant if there is sufficient evidence that members of the household are not currently engaging in such activity or have not engaged in such activity during a reasonable period prior to admission. "Sufficient evidence" is a notarized certification by a household member with supporting documentation (verified by CHA) from a probation officer, social service agency worker, or criminal records

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

a.) However, CHA may reconsider the applicant if there is sufficient evidence that members of the household are not currently engaging in such activity or have not engaged in such activity during a reasonable period prior to admission. "Sufficient evidence" is a notarized certification by a household member with supporting documentation (verified by CHA) from a probation officer, social service agency worker, or criminal records

Immediate vicinity means within a mile radius of the premises.

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

- Any conviction for drug-related activity, violent criminal activity, or criminal activity, for which the sentence is still active or has been completed, within the past five years.
- Records of arrests for drug-related activity, violent criminal activity, or criminal activity within the past five years, although a record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.
- A conviction for drug-related, violent criminal activity, or criminal activity will be given more weight than an arrest for such activity.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 5 years.

Upon consideration of such factors, the CHA may, on a case-by-case basis, decide not to deny assistance.

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

The CHA will deny assistance to an applicant family if any member of the family is currently engaged in or has engaged in any of the following activities within five (5) years of being pulled from the Waiting List.

1) If the family has violated any family obligations under the program, from previous assistance.

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

3) The family does not provide complete and true information to the CHA.

4) If any member of the family has been evicted from federally assisted housing in the last five years.

5) If a PHA has ever terminated assistance under the program for any member of the family.

6) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program.

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

8) If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family pays the full amount of debt prior to being selected from the waiting list.

9) If the family breached the terms of a repayment agreement entered to with any PHA, unless the family pays the full amount of the debt prior to being selected from the waiting list

    a.) If the debt owed to any PHA is six years or older, the three criteria listed immediately above are not applicable.

10.) A family member has engaged in or threatened violent or abusive behavior PHA personnel.

    a.) *Abusive or violent behavior* 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.

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

5.8 CRIMINAL RECORDS AND BACKGROUND CHECKS

To aid in the denial for assistance determinations, CHA will conduct criminal background checks on all adult household members, including live-in aides. The CHA will use the report only for the purpose of applicant screening for admission to the voucher program.

All adult members of an applicant household will be required to submit a signed consent form for the CHA to conduct the background check. The consent form will be attached to the "Housing Applicant Screening Checklist".

This check will be made through state, local enforcement and/or court records in those cases where the household member has lived in the local jurisdiction for the last five years. If the individual has lived outside the local area, the CHA may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC).

Should the report from the local law enforcement agency indicate further screening, the person who signed the form will be notified to submit a fingerprint card to obtain the full content of a criminal history report.

CHA will check with the State sex offender registration program and will ban for life any individual who is registered for life as a sex offender. If on a State sex offender list for less than life, the denial shall be for the term of the listing on the sex offender list. CHA will utilize the US Department of Justice's Dru Sjodin National Sex Offender website as an additional resource. The Dru Sjodin National Sex Offender Database is an online, searchable database, hosted by the Department of Justice, which combines the data from individual state sex offender

The CHA may only disclose the criminal records it receives to officers or employees of the CHA or authorized representative of the CHA with a job-related need to access the information (for example, a hearing officer conducting an administrative grievance hearing).

The CHA will ensure that any criminal record received from a law enforcement agency will be maintained confidentially, not misused or improperly disseminated, and will be destroyed, once the purpose(s) for which the record was requested has been accomplished. This includes the expiration of the period for filing a challenge to the CHA action without institution of a challenge or final disposition of any such litigation.

To verify the CHA conducts criminal background checks on all adult household members, the CHA will maintain the "Housing Applicant Screening Checklist" received from a law enforcement agency with the applicant's file.

An applicant will be given an opportunity to dispute the accuracy and relevance of a criminal record. Before denial of assistance, the CHA will provide an opportunity for an informal review and provide the applicant a copy of the criminal record before the informal review.

The CHA communicates with owners that participate in the HCV Program that screening to determine whether an applicant is likely to be a suitable tenant is the responsibility of the owner

and the CHA has no liability or responsibility to the owner for a family's behavior or suitability for tenancy.

5.9 EIV SYSTEM SEARCHES

CHA must use HUD's EIV system to search for all household members using the "*Existing Tenant Search*" and all adult household members in the Search for Former Tenant. All adult household members must also sign the HUD-52675. The CHA may be required to deny assistance to household members who are already receiving assistance from another program or who owe an outstanding debt to another PHA.

A. Existing Tenant Search and Avoiding Duplicate Subsidy

Prior to admission into the program, the CHA must search for each family member in the *EIV Existing Tenant Search*. The CHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The CHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the CHA, and a match is identified at a multifamily property, the CHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

- CHA will contact the PHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The CHA will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

B. HUD-52675 Debts Owed to PHAs and Terminations

All adult household members must sign the form HUD-52675 *Debts Owed to Public Housing and Terminations*. Prior to admission to the program, the CHA must search for each adult family member in the *Debts Owed to PHAs and Terminations* module.

- Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

- The CHA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the CHA will determine if this information warrants a denial in accordance with the policies

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

C. Income and IVT Reports

For each new admission, the CHA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The CHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

5.10 CRITERIA FOR DECIDING TO DENY ASSISTANCE

A. Evidence [24 CFR 982.553(c)]

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

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

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

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

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

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

3) 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, sexual assault, or stalking.

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

5) The family's history and likelihood of favorable conduct in the future,

6) While a record or records of arrest will not be used as the sole basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant engaged in

disqualifying criminal activity. As part of its investigation, the CHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The CHA may also consider:

a) Any statements made by witnesses or the applicant not included in the police report;

b) Whether criminal charges were filed;

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

d) Any other evidence relevant to determining whether the applicant engaged in disqualifying activity:

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

8.) 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.

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

9.) If previously incarcerated, the length of time the culpable family member has been released into society.

C. Removal of a Family Member's Name from the Application

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

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

- The family must certify that the individual will not be permitted to stay as a guest or reside in the unit; and provide documentation showing the individual's legal residence.

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

If the family includes a person with disabilities, the CHA's will determine whether the behavior is related to the stated disability. If so, upon the family's request, the CHA will determine whether admitting the family as a reasonable accommodation is appropriate. The CHA will only

consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance**.**

5.11. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, the CHA will notify the family in writing and schedule a tenant briefing.

If an applicant family is determined not be eligible, the CHA will notify the family in writing promptly. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)].

- If the rejection is based on a debt owed to a PHA,
  - The notice shall inform the applicant that she or he has 30 calendar days from the date of the notification letter to make a payment arrangement with the PHA and provide a copy of the payment arrangement; or
  - Has 10 business days to request in writing an informal review.

If the CHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial,

1.) A copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the CHA can move to deny the application.

2.) A copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

5.12. PROHIBITION AGAINST DENIAL UNDER VAWA

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of assistance to an otherwise qualified applicant on the basis the applicant is or has been a victim of domestic violence, dating violence or stalking.

Any federal, state, or local law provision that provides greater protection to victims of such violence take precedence over VAWA.

A. Definition

1) *Domestic Violence*. Includes felony or misdemeanor crimes of violence committed by A current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

2) *Dating Violence.* Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on consideration of the following factors: length of relationship, type of relationship, frequency of interaction between the persons involved in the relationship.

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

4) *Immediate Family.* In relation to VAWA, immediate family member means with respect to a person: a spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent or any other person living in the household of that person and related to that person by blood and marriage.

B. Rights of Applicants/Certification

The CHA will notify applicants of their rights under VAWA by providing information of the law in the Voucher packet.

Victim Documentation

The CHA will ensure that an otherwise qualified applicant will not be denied assistance on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking by:

1) Requesting an individual certify via a HUD-approved certification form (HUD-50066) that the individual is a victim of such violence and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse; or

2) The individual may satisfy the certification requirement by providing documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the actual or threatened abuse.

The above certifications must include the name of the perpetrator and be provided within 14 business days after the individual receives the request from the CHA.

Perpetrator Documentation

If the perpetrator of the abuse is a member is a member of the applicant family, the applicant must provide additional documentation consisting of one the following:

- A signed statement:

    1.) Requesting that the perpetrator be removed from the application, and

    2.) Certifying that the perpetrator will not be permitted to visit or stay as a guest in the assisted unit.

In order to reinstate the perpetrator or to initially remove them from the application, CHA may request documentation that the perpetrator has successfully completed, or is currently undergoing rehabilitation or treatment. The document must be signed by an employee of a licensed professional from whom the perpetrator has sought or is receiving assistance.

All information provided to the CHA, owner, or manager regarding domestic violence, dating violence, or stalking will be retained in confidence. The information will not be entered into any shared database nor provided to any related entity, except if disclosure is requested or consented to by the individual in writing, is required for use in an eviction proceeding or is otherwise required by law.

EXHIBIT 5.1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

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

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

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

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) In General

  The term "developmental disability" means a severe, chronic disability of an individual that:

  (i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

  (ii) Is manifested before the individual attains age 22;

  (iii) Is likely to continue indefinitely;

  (iv) Results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and

  (v) Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) Infants and Young Children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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

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

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

Individual with Handicaps [24 CFR 8.3]

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

(1) Physical or mental impairment includes:

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

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

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

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

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

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

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

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

EXHIBIT 5.2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION
[20 U.S.C. 1001 and 1002]

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

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

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

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ''institution of higher education'' means an educational institution in any State that

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted reaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of reaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ''institution of higher education'' also includes—

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations

that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

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

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

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

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

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

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

(2) Institutions outside the United States

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

(i) In the case of a graduate medical school located outside the United States—

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

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

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

(B) Advisory panel

(i) In general. To qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

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

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

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

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

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

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of

instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

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

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

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

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

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

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

(b) Proprietary institution of higher education

(1) Principal criteria. To this section, the term ‘‘proprietary institution of higher education’’ means a school that—

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

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

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

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

(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term ‘‘proprietary institution of higher education’’ also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. To this section, the term ‘‘postsecondary vocational institution’’ means a school that—

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

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

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

(2) Additional institutions. The term ‘‘postsecondary vocational institution’’ also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

6.0 VOUCHER BRIEFING; REQUEST FOR APPROVAL OF TENANCY

After a family has been found to eligible for a voucher program, the CHA must conduct an oral briefing [24 CFR 982.301} and provide the family with a briefing packet containing written information about the program**.** At the briefing, the CHA 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.

6.1 VOUCHER BRIEFING

A. Notice to Eligible Applicant

Prior to issuance of a voucher, the family will be required to attend an oral briefing and be provided with a briefing packet containing written information about the program. Families may be briefed in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

Families will be notified of their eligibility in writing. The notice will inform the family of the date, time, and location of the scheduled briefing, and who is required to attend.

1.) Notification Letter Returned

If a notification letter is returned to the CHA with no forwarding address, the family will be denied and their name will not be placed back on the waiting list.

- If the letter was returned to CHA and the applicant can provide evidence that they were living at the address to which the letter was sent, the applicant will be reinstated with the date and time of the application in effect at the time the letter was sent.

If the notice is returned by the post office with a forwarding address, the notice will be resent to the address indicated

2.) Missed Briefing/Didn't Receive

If an applicant claims they did not receive a letter mailed by CHA, that requested the applicant to attend a voucher briefing, a determination will be made as to whether the letter was returned to CHA.

- If the letter was not returned and the applicant did not contact the CHA prior to the voucher briefing, the CHA will assume that the family is no longer interested and the family will be removed. A notice of denial will be sent to the family's address of record, as well as to any known alternate address.
- If the letter is returned, the CHA will send another letter to any other known alternate address; otherwise the family will be denied.

3.) Missed 2nd Briefing

A second voucher briefing may be scheduled, at the CHA's discretion, if the family can show just cause in why they didn't show nor call prior to the missed first briefing, otherwise the family will be denied.

B. Types of Briefings

1.) In Person

Applicants will be required to attend an in-person Voucher Briefing. At the family's written requests, the CHA may provide an individual briefing.

The head of household, and all adults 18 years of age and older, will be strongly encouraged to attend the interview together.

2.) Remote Briefings [Notice PIH 2020-32]

Remote briefings may be conducted over the phone, via video conferencing, or through other virtual platforms.

- CHA has the sole discretion to require that briefings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster. If CHA schedules a remote briefing, the CHA may conduct a face-to-face briefing upon request of the applicant as a reasonable accommodation for a person with a disability if safety and health concerns can be reasonably addressed.

- In addition, the CHA will conduct a briefing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child-care or transportation that would enable them to attend the briefing, or if the applicant believes an in-person briefing would create an undue health risk. CHA will consider other reasonable requests for a remote briefing on a case-by-case basis.

Accessibility Requirements for Persons with Disabilities and LEP Individuals

- As with in-person briefings, the platform for conducting remote briefings must be accessible and the briefing conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

- If no method of conducting a remote briefing is available that appropriately accommodates an individual's disability, the CHA may not hold against the individual his or her inability to participate in the remote briefing, and CHA should consider whether postponing the remote briefing to a later date is appropriate or whether there is a suitable alternative.

- Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances.

- Limited English Proficiency (LEP) requirements also apply to remote briefings, including the use of interpretation services and document translation.

Conducting Remote Briefings

The CHA must ensure that the lack of technology or inability to use technology for remote briefings does not pose a disadvantage to families that may not be apparent to the PHA. CHA must ensure that the family has appropriate technological access in order to fully participate in the remote briefing.

- At least 10 business days prior to scheduling the remote briefing, CHA will provide written notification via first class mail and/or email to families participating in the briefing to advise of technological requirements and to request the family notify CHA of any known barriers. If any family does not respond within five business days, or if the written notification is returned by the post office or the email is rejected, CHA will contact the family by telephone to identify potential technological barriers and to determine which technology resources are accessible to the family. The CHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

- The CHA will conduct remote briefings via a video conferencing platform when available. If applicants are unable to adequately access the video conferencing platform, the briefing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in, the remote briefing will be postponed, and an in-person alternative or one-on-one briefing over the phone will be provided.

- The CHA will provide login information and/or conferencing call-in information and an electronic copy of the briefing packet via email at least five business days before the briefing. The PHA will provide a paper copy of the briefing packet upon family request, and may reschedule the briefing to allow adequate time for the family to receive the physical briefing packet.

- The CHA will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring personally identifiable information (PII) is protected.

- The CHA will ensure that families who participate in remote briefings have the opportunity to ask questions as part of the briefing.

- If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with the CHA.

The family will be required to mail back the executed voucher in the envelope enclosed in their briefing packet.

- A family will not be considered having a voucher issued to them, until CHA receives the signed voucher back.

- If the family doesn't mail the signed voucher back, within 10 business days, after their phone briefing, a notice of denial will be mailed.

C. BRIEFING MATERIALS

1.) Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the voucher program works;

- Family and owner responsibilities;

- Where the family can lease a unit, including renting a unit inside or outside the CHA's jurisdiction;

- An explanation of how portability works. The CHA may not discourage the family from choosing to live anywhere in the CHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order.

- The PHA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance.

2.) Briefing Packet [24 CFR 982.301(b)]

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

- The term of the voucher, voucher suspensions, and the CHA's policies on any extensions of the term. If the CHA allows extensions, the packet must explain how the family can request an extension.

- A description of the method used to calculate the housing assistance payment for a family, including how the CHA determines the payment standard for a family, how the CHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.

- An explanation of how the CHA determines the maximum allowable rent for an assisted unit.

- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.

- The HUD-required tenancy addendum, which must be included in the lease.

- The form the family must use to request approval of tenancy**,** and a description of the procedure for requesting approval for a tenancy.

- A statement of the CHA'S policy on providing information about families to prospective owners.

- The CHA subsidy standards including when and how exceptions are made.

- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.

- Information on federal, state, and local equal opportunity laws and a copy of the housing discrimination complaint form.

- A list of landlords known to the CHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the CHA that may assist the family in locating a unit. PHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration.

- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the CHA.

- The family obligations under the program.

- The grounds on which CHA may terminate assistance for a participant family because of family action or failure to act.

- CHA's informal hearing procedures including when CHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

3.) 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, Notice PIH 2017-12].

CHA will provide the following additional materials in the briefing packet:

- The HUD pamphlet on lead-based paint entitled Protect Your Family from Lead in Your Home
- Information on how to fill out and file a housing discrimination complaint form
- The form HUD-5380 domestic violence certification form and the form HUD-5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking
- "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 2017-12
- HUD Form 56675 Debts Owed to PHA to be signed by all adult household members
- Pamphlets on the Family Self-Sufficiency and the Homeownership Programs

6.2 FAMILY OBLIGATIONS

Obligations of the family are described in the voucher regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. CHA will 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 to continue participating in the program. Violation of any family obligation may result in termination of assistance.

A. Time Frame for Reporting Changes

Unless otherwise noted below, when family obligations require the family to respond to a request or notify CHA of a change, notifying CHA of the request or change within 10 business days is considered prompt notice.

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

B. Family Obligations [24 CFR 982.551]

The family (including each adult household member) must:

- Supply any information the CHA or HUD determines to be necessary including evidence of citizenship or eligible immigration status.
  - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. (See 24 CFR 982.552(b)(4) and 24 CFR 5.514(c).)
- Supply any information the CHA or HUD determine to be necessary for use in administering the program, including conducting a regularly scheduled re-examination or interim re-examination of family income and composition.
  - See 24 CFR 982.551(b)(1)-(2).
- Disclose and verify social security numbers.
  - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 5.218(c).
- Sign and submit consent forms for obtaining information.
  - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.552(b)(3).
- Allow the CHA and/or owner to inspect the dwelling unit at reasonable times and after reasonable notice.
  - Allow the owner/landlord access to the unit to make repairs. See 24 CFR 981.551(d).
- Commit any serious or repeated violation of the lease,
  - Even if the violation does not lead to eviction.
  - CHA 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, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.
  - *Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- Notify the CHA and the before moving out of the unit or terminating the lease.
    - The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the CHA at the same time the owner is notified.
    - The family must provide a written notice to CHA that is signed by the landlord, stating that the family is leaving in good terms.
    - If the family is found to owe the landlord rent (current or back), the rent must be paid in full before CHA will issue the family a voucher to move.
- Promptly give the CHA a copy of any owner eviction notice
    - Within 10 days
- Use the assisted unit for residence only by the family that is listed on the HAP contract and the lease. The unit must be the family's only residence.
- Receive CHA approval for the family residing in the unit.
    - Notify the CHA in writing the birth, adoption, or court awarded custody of a child, within 10 days
    - Request CHA's written approval to add any other family member as an occupant of the unit, within 10 days
    - CHA will also require written documentation of landlord approval to add the additional household member(s) to the lease
- Promptly notify the CHA in writing if any family member no longer lives in the unit.
    - Within 10 days
- Request and obtain CHA approval before adding a live-in aide or foster child/adult to the household
- Supply any information requested by the CHA to verify that the family is living the unit or information related to family absence from the unit.
- Promptly notify the CHA when the family is absent from the unit for an extended period of time.
    - Within 10 days
    - An extended period is defined as any period greater than 30 calendar days *in any 45-day period*. Written notice must be provided to the PHA at the start of the extended absence *unless disability or medical circumstances would prevent that from happening.*

- Maintain the unit in accordance with Housing Quality Standards
    - Pay utility bill and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher]
    - If the family is found to owe the landlord money due to family damages, or utilities not paid; the amount must be paid in full (no more than 30-days), or termination may start on the voucher.
- Report all changes in annual income if the family has zero income prior to the change.
    - Within 10 days.
- Follow the CHA's policy regarding guests. A guest is defined as a person temporarily staying in the unit with the consent of the head of household or another adult member. See 24 CFR 5.100.
    - A guest may visit a family in an assisted unit for a total of 30 calendar days in a calendar year; however, each visit cannot exceed 14 consecutive calendar days. A visit is defined as an overnight stay.

  Participants may request a time extension to this visitor timeframe. Persons that exceed the time as a guest will be considered an unauthorized occupant and the family will be subject to program termination. Verification of an unauthorized occupancy can be established through the following:

  (1) Statements from landlord;

  (2) Statement from neighbors;

  (3) Government issued ID's or reports;

  (4) Police reports;

  (5) Post Office report; or

  (6) Other documentation or investigations.
- Attend informational briefings and required appointments including but not limited to those scheduled to discuss violations of family obligations and allegations of criminal activity in the family's unit, building or local area.
- Continue to meet ongoing eligibility requirements in the case of students. 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 and is not residing with his/her parents in an HCV assisted household, the CHA will terminate the student's assistance if, at the time of re-examination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit. The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.552(b)(5).

The family (including each family member) must not:

- Own or have any interest in the unit (other than in a cooperative or in the case of a voucher holder participating in the homeownership program).
- Commit any serious or repeated violation of the lease.
- CHA ill 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, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.
- Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- Engage in any drug-related criminal activity
    - Or allow guest to engage in any drug related criminal activity
    - 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 [24 CFR 5.100]. Drug means a controlled substance as defined in Section 802 of the Controlled Substances Act [21 USC 802] or any other illegal drug.
- Any household member or guest is currently engaged in drug-related criminal activity or has engaged in drug-related criminal activity within the past three years.
- Any illegal drug use or pattern of illegal drug use by a household member or guests that interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.
    - The CHA may terminate assistance for drug-related criminal activity by a household member if the CHA determines that the household member has engaged in the activity within the last five years.
- Engage in any violent criminal activity
    - Or allow guest to engage in any violent criminal activity

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

- Engage in any other criminal activity
  - Or allow guest to engage, in any other criminal activity
  - 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. Immediate vicinity means within a one-mile radius of the premises. See 24 CFR 5.100.
  - The CHA may terminate assistance for criminal activity by a household member or guest if the CHA determines that the household member has engaged in the activity within the last five years.

- Sublease or let the unit or assign the lease or transfer the unit
  - Subleasing includes receiving payment to cover rent, utility costs, or other expenses, by a person living in the unit who is not listed as a family member.

- Receive rental assistance while receiving another housing subsidy for the same unit or a different unit under any other federal, state, or local housing assistance program. See 24 CFR 982.551(n).

- Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises
  - The family is responsible for any damages to the unit or premises that are damaged by any guest/visitor/unauthorized person.
  - Damages beyond normal wear and tear will be damages which could be assessed against the security deposit *as* determined by Maine State law.
  - If the family is found to owe the landlord money for damages (current or back), the amount must be paid in full (no more than 30-days), or termination may start on the voucher.

- Receive rental assistance while residing in a unit owned by a spouse, domestic partner, parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the CHA 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.

- 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 and/or community.

- Be evicted due to serious violation of the lease.

  - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.552(b)(2).

  - The family is responsible for any serious or repeated violation of the lease that is caused by any guest/visitor/unauthorized person.

  - CHA considers a family evicted if the landlord files an eviction action and the court entered an order of possession, even if:

    (1) a money judgment is not entered concurrently with the order of possession, or

    (2) the family moves out of the subsidized unit before the order of possession is entered or physically enforced.

  - CHA may consider a family to be evicted if the order of possession is an agreed order. The CHA will not consider a family to be evicted, however, if the order of possession is entered concurrently with a written settlement agreement pursuant to which the family repays all unpaid back rent and rent when due while they remain in possession of the subsidized unit.

- Threaten or engage in abusive or violent behavior or criminal activity toward CHA personnel or its representatives. See 24 CFR 982.552(c)(1)(ix) and 24 CFR 5.100. CHA personnel include CHA employees or CHA contractors, subcontractors, or agents.

  - Or allow guest to threaten or engage in behavior

  - Abusive or violent behavior towards CHA personnel or agents and contractors 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.

- Engage in behavior that disturbs or threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.

  - Or allow guest to engage in behavior

- Fail to attend two consecutive, scheduled re-examination appointments without CHA approval.

- Be subject to a lifetime requirement to register as a sex offender in any state or territory of the United States.

- Have committed or be convicted of a drug-related crime for the manufacture or production of methamphetamine on the premises of federally assisted housing. The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.553(b)(1)(ii).

- Have had any public housing authority (PHA) previously terminate assistance under any federally assisted housing program within the last three years. See 24 CFR 982.552(c)(1)(iii). This policy excludes voluntary terminations.

- Currently owe rent or other amounts to any PHA in connection with the HCV (including PRA and RAD), Moderate Rehabilitation or public housing programs, unless the family currently has a repayment agreement and is complying with its terms. See 24 CFR 982.552(c)(1)(v). This includes, but is not limited to:

    - Failure to reimburse a PHA for amounts the PHA paid to an owner for amounts owed by the family under the lease.

    - Breaching the terms of a repayment agreement entered with the CHA. See 24 CFR 982.552(c)(1)(vii). See Chapter 14-Program Integrity for further discussion on repayment agreements.

    - Any repayment agreement within the past six years.

6.3 SUBSIDY STANDARDS AND VOUCHER ISSUANCE

A. **Determining Family Unit Size** (Voucher Size) [24 CFR 982.402]

For each family, the CHA determines the appropriate number of bedrooms under the 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 lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the CHA 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.
- Single Person
  - Single person families will be allocated one bedroom.
  - A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Live-In Aide
  - Any live-in aide (approved by the CHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
  - Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.
- Children
  - Children of the same sex will share a bedroom.
  - Children of the opposite sex, both under the age of six (6) may share a bedroom
  - A child will not be required to share a bedroom with his/her parent or a person of a different generation.
  - 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.

- Foster children will be included in determining unit size only if they will be in the unit for more than 7 months
- Space may be provided for a child who is away at school but who lives with the family during breaks (if the parent has primary custody of the child).

- Household Members
  - Persons of the opposite sex (other than spouses, and children under age 5) will be allocated separate bedrooms.
  - Unrelated adults of the same gender will be allocated separate bedrooms, unless in a spousal relationship.
  - 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.

The CHA will issue a voucher for a particular bedroom size – the bedroom size is a factor in determining the family's level of assistance. The following guidelines will determine each family's unit size without overcrowding or over-housing:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
0	1	2
1	1	2
2	2	4
3	3	6
4	4	8

The family unit size will be determined by the CHA in accordance with the above guidelines and will determine the maximum rent subsidy for the family; however, the family may select a unit that may be larger or smaller than the family unit size. If the family selects a smaller unit, the payment standard for the smaller sized unit will be used to calculate the subsidy. If the family selects a larger sized unit, the payment standard for the family unit size will determine the maximum subsidy.

B. Exceptions to Subsidy Standards

In determining family unit size for a particular family, the CHA may grant an exception to its established subsidy standards if the CHA 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
  - The family's continued need for an additional bedroom due to special medical equipment must be re-verified the annual HQS inspection.
  - If the extra bedroom is not being used for its intended purpose CHA will reduce the payment standard at the family's next annual reexamination
- 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)].

Requests for upgrades in bedroom size or exceptions to the subsidy standards may include, but are not limited to:

- Two elderly or disabled household members may be given separate bedrooms as a reasonable accommodation for a person with a disability or because of a medical necessity or health condition.
- For requests to approve an additional bedroom for medical equipment that has been determined necessary by a knowledgeable professional (e.g. doctor or health professional), the additional bedroom should not be approved for the purpose of storing exercise equipment or other medical equipment if such equipment could be stored in the common living space, one of the existing bedrooms, a garage, or storage area.

C. Voucher Issuance [24 CFR 982.302]

Once all family information has been verified, their eligibility determined, their subsidy calculated, and they have attended the family briefing CHA will issue the voucher. At this point the family begins their search for a unit.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the CHA has determined the family to be eligible for the program, and that the CHA expects to have money available to subsidize the family if the family finds an approvable unit.

- However, CHA 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 CHA's housing voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after CHA has determined that the family is eligible for the program based on verification of 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].

CHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the CHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

Insufficient Funding

If CHA determines that there is insufficient funding after a voucher has been issued, the CHA may rescind the voucher and place the affected family back on the waiting list.

If, due to budgetary constraints, CHA must rescind vouchers that have already been issued to families, CHA will do so according to the instructions under each of the categories below. CHA 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 for which a Request for Tenancy Approval (RTA) and proposed lease have not been submitted to the PHA.

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

- Category 2: Vouchers for which a Request for Tenancy Approval and proposed lease have been submitted to CHA.

  Vouchers will be rescinded in order of the date and time the RTA was submitted to CHA, 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 CHA selection policies.

D. Voucher Term and Extensions

1.) 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)].

The family must submit a completed Request for Tenancy Approval and proposed lease within the 60-day period unless the CHA grants an extension.

2.) Extensions of Voucher Term [24 CFR 982.303(b)]

CHA may approve one 30-day extension upon the submittal of the family's written request and Housing Search Report.

CHA may approve additional extensions 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 the CHA. Following is a list of extenuating circumstances that the CHA 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 the PHA
  - Whether family size or other special circumstances make it difficult to find a suitable unit

Any request for an additional extension must include the reason(s) an additional extension is necessary. CHA may require the family to provide documentation to support the request or obtain verification from a qualified third party.

All requests for extensions to the voucher term must be made in writing and submitted to CHA prior to the expiration date of the voucher (or extended term of the voucher).

CHA 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.

CHA'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)].

3). Suspensions of Voucher Term [24 CFR 982.303(c)]

The voucher will be placed on suspension when the family submits a completed RTA to CHA, and will remain on suspension until, CHA has conducted a Rent Reasonableness Test, Affordability Analysis and has done an HQS Inspection.

- If the unit passes inspection, the voucher will be released after the family has been notified.
- If the unit fails inspection, the voucher will remain suspended until the repairs are completed, or no more than 30 days (whichever one is less) and will be released after the family has been notified.

Example: Voucher Term Expiration	
Voucher Issued	May 1
Family Submits Request for Tenancy Approval	May 15
CHA Denies Unit	May 24
Tolling Time	9 Days (May 16- May 24)
New Voucher Expiration Date	July 8 (June 29 + 9 days)

* This would also apply if CHA approves the unit, the voucher is released.

4.) Expiration of Voucher Term

Once a family's voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program.

Within 10 business days after the expiration of the voucher term or any extension, CHA will notify the family in writing that the voucher term has expired and that the family must reapply when the waiting list is open in order to be placed on the waiting list.

If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

E. Voucher and Changes in Family Composition

Families are not required to move from an assisted unit when there is a change in family composition that results in the number of bedrooms in the unit exceeding the number of bedrooms for which the family is eligible. Instead, the CHA would reduce the subsidy standard to conform with the CHA's policies and reduce the payment standard accordingly at the family's next annual recertification after the change in family composition.

6.4 REQUEST FOR TENANCY APPROVAL

When the family finds a unit that the owner is willing to lease under the program, the family must submit a Request for Tenancy Approval form and CHA will review the request and make an initial determination of approval of tenancy. CHA will also at this time request a copy of the lease for approval.

- CHA will only allow the family to submit one RTA at a time.
- CHA may also assist the family in negotiating changes that may be required for the tenancy to be approved.

If CHA determines that the unit meets approval requirements, CHA will notify the owner and the family of its determination and will schedule an appointment to inspect the unit. The inspection

will be scheduled within 15 days of the request. CHA will promptly notify the owner and the family whether the unit and tenancy are approvable.

Important: CHA will advise participants not to sign a lease or pay a security deposit before the unit has been approved. If CHA is unable to approve the unit, the family may be held liable for a signed lease and may lose their security deposit. CHA will not be held financially responsible if the unit is not approved.

A. Approval of RFTA

The CHA will approve a lease if all the following conditions are met:

1) The unit is eligible;

2) The unit is inspected by CHA and passes HQS;

3) The lease is approvable and includes the following:

    a) The names of the owner and the tenant;

    b) The address of the unit rented;

    c) The term of the lease (initial term must be twelve (12) months and may include provisions for renewal);

    d) The amount of the monthly rent to owner;

    e) 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; and

    f) The required HUD tenancy addendum.

4) The rent to owner is reasonable;

5) The family's share of rent does not exceed 40% of their monthly adjusted income if the gross rent exceeds the applicable payment standard;

6) The owner has not been found to be debarred, suspended, or subject to a limited denial of participation by HUD or CHA; and

7) The family continues to meet all eligibility and screening criteria.

B. Denial of RTA

If tenancy approval is denied, CHA will advise the owner and the family and inform them of any actions they could take that would enable CHA to approve the tenancy.

- The family may continue to search for housing within the timeframe of the issued voucher (suspension will be released).

C. HAP Contract & Lease

The lease term may begin only after all the following conditions are met:

1) The unit passes the HQS inspection;

2) The family's share of rent does not exceed 40% of their monthly adjusted income if the gross rent exceeds the applicable payment standard;

3) The landlord and tenant sign the lease to include the HUD required addendum; and

4) CHA approves the leasing of the unit.

CHA will prepare the Housing Assistance Payment (HAP) contract, along with all other necessary forms and certifications required to be completed by the owner when the unit is approved for tenancy. Upon receipt of the executed lease, CHA will execute the HAP contract. CHA will not pay any housing assistance to the owner until the HAP contract is executed.

6.5 SECURITY DEPOSIT

The owner may collect a security deposit from the tenant in an amount not more than amounts charged in private market practice and not more than amounts charged by the owner to unassisted tenants.

When the tenant moves out of the dwelling unit, the owner, subject to State or local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid rent payable by the tenant, damages to the unit or for other amounts the tenant owes under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount, if any, used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the tenant.

If the security deposit is not sufficient to cover amounts the tenant owes under the lease, the owner may seek to collect the balance from the tenant. Under no circumstances will CHA be held liable for tenant damages to the unit or past due balances owed to the owner by the tenant.

7.0 DETERMINATION OF FAMILY INCOME

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

To determine annual income, the CHA counts the income of all family members, excluding the types and sources of income that are specifically excluded. Once the annual income is determined, CHA subtracts out all allowable deductions (allowances) as the next step in determining the Total Tenant Payment. Determination of income takes place before a family is admitted to voucher program, and at least annually thereafter.

7.1. ANNUAL INCOME

Annual income means all amounts, monetary or not, which: [24 CFR 5.609}

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;

3. Are derived (during the 12-month period) from assets to which any member of the family has access; and

4. Are not specifically excluded from annual income.

A. Annual Income Inclusions

Annual income includes, but is not limited to:

1.) 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 [24 CFR 5.609(b)(1)].

- CHA may use an average of the two (2) most consecutive pay stubs; or
- CHA may use the family's prior year W-2

2.) Business Income, the net income from the operation of a business or profession.

a) Business expenses, net income is "gross income less business expense".

b) Business expansion, HUD regulations do not permit CHA to deduct from gross income expenses for business expansion.

c) Capital Indebtedness, HUD regulations do not permit the CHA to deduct from gross income the amortization of capital indebtedness.

d) 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.

e.) Withdrawal of Cash or Assets from a Business. 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, CHA 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.

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

3.) Assets¸ Interest, Dividends, **Other Net Income from Real or Personal Property**. Any withdrawal of cash or assets from an investment is included in income. Where the family has net family assets more than $5,000, annual income includes the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.

4.) Social Security, Annuities, Insurance Policies, Retirement Funds, Pensions, Disability or Death Benefits.

Full amount of periodic amounts (monthly).

- However, deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts are excluded

- The CHA 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 2018-24].

6.) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay [24 CFR 5.609(b)(5)]

- However, lump sum additions such as insurance payments from worker's compensation are excluded) [24 CFR 5.609(c)(3)].

7.) Welfare assistance

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

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

The CHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 7-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

b.) Covered Families

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

c.) Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the CHA must include in annual income "imputed" welfare income. The CHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced because of the sanction.

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

d.) Offsets

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

8.) Alimony and Child Support [24 CFR 5.609(b)(7)]

The CHA must count alimony or child support amounts awarded as part of a divorce or separation agreement, unless verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

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

9.) Regular Contributions or Gifts [24 CFR 5.609(b)(7)]

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

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

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

- The family will be required to provide copy of the paid bills and receipts upon CHA request.

10.) Student Financial Assistance (HCV Program only)

a.) Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9); FR 4/10/06; Notice PIH 2015-21]

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 and fees* are defined in the same way the Department of Education defines *tuition and fees* [Notice PIH 2015-21].

    - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.

    - The amount represents what a typical student would be charged and may not be the same for all students at an institution.

    - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.

    - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

    - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

11.) 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)].

B. Exclusions from Income

Annual income does not include the following:

1.) Children's Earnings

Income from employment of children (including foster children) under the age of 18 years [24 CFR 5.609(c)(1)];

2). Foster child/adult payments

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

3.) Lump-Sum Additions

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 or any lump sum that does not represent the delayed start of a periodic payment, including lottery winnings received in a single lump sum;

4.) Medical Expenses

Amounts received by the family that is specifically for, or in reimbursement of, the cost of medical expenses for any family member.

5.) 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)].

6.) **Student Financial Assistance** [24 CFR 5.609(c)(6)]

Any student financial assistance 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.

7.) Military Pay,

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

8.) Specialty Programs:

- See Example 7-2

7.2 ASSETS AND ASSET INCOME

An asset is something that has monetary value, such as cash, a savings account, stock in a company, a house, or a parcel of land.

- There is no asset limitation for participation in the HCV program. [24 CFR 5.609(b)(3)].

A. General Policies

1.) Income from Assets

*C*HA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset.

2.) Valuing Assets

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

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).

- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

Where the family has net family assets equal to or less than $5,000, CHA will accept a family's declaration of the amount of assets and the income expected to be received. CHA will not request supporting documentation from the family. (PIH-2013-03)

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

3.) Lump-Sum Receipts

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income.

However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs].

4.) Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]

When net family assets are $5,000 or less, the CHA will include in annual income the actual income anticipated to be derived from the assets.

When the family has net family assets more than $5,000, the CHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the CHA.

- The CHA initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).
- The CHA will review the passbook rate annually (in December). The rate will not be adjusted unless the current CHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.
- The effective date of changes to the passbook rate will be determined at the time of the review (for February 1st).

5.) Determining Actual Anticipated Income from Assets

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used.

For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value.

- However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

6.) Withdrawal of Cash or Liquidation of Investments

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family.

For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

7.) Jointly Owned Assets [24 CFR 5.609(a)(4)]

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

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

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

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

9.) Minimum Threshold

The CHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

10.) Separation or Divorce

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

11.) Foreclosure or Bankruptcy

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

12.) Family Declaration

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

B. Types of Assets

1). Checking and Savings Accounts

In determining the value of checking account and savings accounts, the CHA will use the current balance.

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

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

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

a.) For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

b.) When the anticipated rate of return is not known (e.g., stocks), the CHA will calculate asset income based on the earnings for the most recent reporting period.

3.) Equity in Real Property or Other Capital Investments

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

- In determining the equity, the CHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value**, or**

- The CHA will determine market value by examining recent tax assessments, appraisals, or online estimates from websites such as www.zillow.com

- The CHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the CHA will use the basic loan balance information to deduct from the market value in the equity calculation.

- The CHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value minus the balance of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

    - For the purposes of calculating expenses to convert to cash for real property, the CHA will use ten percent of the market value of the home.

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

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

4.) Trusts

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

a.) Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

b.) Nonrevocable Trusts

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)].

5.) Retirement Accounts

a.) Company Retirement/Pension Accounts

To correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the CHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5-26], except to the extent that it represents funds invested in the account by the family member. (The balance in the account is counted as an asset only if it remains accessible to the family member.

b.) IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

6.) Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

- In determining the value of personal property held as an investment, the CHA will use the family's estimate of the value. The CHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

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

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

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

7.) Life Insurance

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether the family receives it.

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

C. Assets Do Not Include

1. Necessary items of personal property, such as furniture, clothing, and automobiles.

2. Interest in Indian trust lands

3. The value of a home being purchased through the HCV Homeownership Program (limited to the first 10 years after the purchase of the home)

   Assets that are part of an active business or farming operation (only if real estate is a family member's main occupation).

7.3 ADJUSTED INCOME

Mandatory deductions. In determining adjusted income, the responsible entity, CHA must deduct the following amounts from annual income [24 CFR 5.611(a)]:

1. Dependent :$480 for each

2.) Elderly/Disabled Family: $400

3.) Medical Expense: U 3%

4.) Disability Assistance Expense

5.) Child Care

Anticipating Expenses

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

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

A. 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)].

B. 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.
- A *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

Each family is only entitled to one deduction, even if the family qualifies both as an elderly family and a disabled family.

C. Medical Expenses Deduction [24 CFR 5.611(a)(3)(i)]

The medical expense deduction is limited to 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, including children and nonelderly adults, are counted [VG, p. 28].

- Medial The medical expenses must be anticipated (regular, ongoing expenses that a family expects to pay in the upcoming 12 months).
- Expenses must be unreimbursed (not covered by an outside source such as insurance).
- The portion deducted is that portion of annual unreimbursed medical expenses that exceeds 3 percent of the family's annual income.

Types of Medical Expenses

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.

- CHA will allow nonprescription medicines if recommended by a medical provider

• **Summary of Allowable Medical Expenses from IRS Publication 502**	
• Services of medical professionals • Surgery and medical procedures that are necessary, legal, non-cosmetic • Services of medical facilities • Hospitalization, long-term care, and in-home nursing services • Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor • Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails) • Substance abuse treatment programs	• Psychiatric treatment • Ambulance services and some costs of transportation related to medical expenses • The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth) • Cost and continuing care of necessary service animals • Medical insurance premiums or the cost of a health maintenance organization (HMO)
• **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.	

D. Disability Assistance Expense [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:

- Are necessary to enable a family member 18 years or older to work,

- Are not paid to a family member or reimbursed by an outside source,
- In combination with any medical expenses, exceed three percent of annual income,
- Do not exceed the earned income received by the family member who is enabled to work, and
- Is reasonable.

1.) 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.

- The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the CHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.
- When the CHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

2.) 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].

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

a.) Eligible Auxiliary Apparatus

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with

disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

b.) Eligible Attendant Care

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

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

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

- If the care attendant also provides other services to the family, the CHA 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.

c.) 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.

d.) Necessary and Reasonable Expenses

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

- The CHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the

CHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the CHA will consider, the family's justification for costs that exceed typical costs in the area.

3. Families That Qualify for Both Medical and Disability Assistance Expenses

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 CHA will consider them medical expenses unless the expenses are incurred exclusively to enable a person with disabilities to work.

E. Child Care Expense Deduction

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

1.) Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses [HCV GB, p. 5-29].

2.) Qualifying for the Deduction

a.) Determining Who Is Enabled to Pursue an Eligible Activity

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

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

b.) Seeking Work

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

c.) Furthering Education

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

d.) Being Gainfully Employed

- If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

3.) 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 childcare – although the care must still be necessary and reasonable. However, when childcare 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, childcare expenses are limited to $5,000.

The CHA will not limit the deduction to the least expensive type of childcare. 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].

- When the childcare 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 CHA generally will limit allowable childcare 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.

4.) Eligible Child Care Expenses

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

a.) Allowable Child Care Activities

- 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, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare 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 CHA 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 childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

b.) Necessary and Reasonable Costs

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

- Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a

family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

- To establish the reasonableness of child care costs, the CHA will use the schedule of child care costs from a qualified local entity that either subsidizes child care costs or licenses child care providers. Families may present, and the CHA will consider, justification for costs that exceed typical costs in the area.

7.4 EARNED INCOME DISALLOWANCE (EID)

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

A. Eligibility

For adult family members residing in public housing or assisted by the voucher program, (including PBV's), the Earned Income Disallowance (EID) excludes income earned by family members who meet one of the following criteria:

1. Families whose income increases as a result of employment of a family member who was previously unemployed (defined as working less than 10 hours a week at the established minimum wage) for one or more years.

2. Families whose income increases during the participation of a family member in any economic self-sufficiency or other job training program.

3. Persons who are or were, within 6 months, assisted under a State TANF or Welfare-to Work program for at least $500.

B. Calculation Method

Once a family member is determined to be eligible for the EID, the 24-month period starts.

1.) Initial 12-Month Exclusion.

a.) During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income from new employment or increased earnings is excluded.

b.) The initial EID 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.

2.) Second 12-Month Exclusion

a.) During the second exclusion period of 12 consecutive months, the CHA must exclude half (50 percent) of any increase in income from new employment or increased earnings is excluded.

The EID benefit is limited to a lifetime 24-month period for the qualifying family member.

The EID benefit will end 24 months after it began, regardless of how many months were "used".

EXHIBIT 7.1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

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

(1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or

(2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph (c) of this section.

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

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

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

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

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

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

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

(6) Welfare assistance payments.

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

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

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

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

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

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

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

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

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

[1] Text of 45 CFR 260.31 follows.

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

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

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

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

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

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

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

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

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

(iii) Will not extend beyond four months.

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

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

(4) Refundable earned income tax credits;

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

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

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

EXHIBIT 7.2: ANNUAL INCOME EXCLUSIONS [24 CFR 5.609]

(c) *Annual income does not include the following:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.

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

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

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See Section 6-I.M. for a list of benefits that qualify for this exclusion.]

EXHIBIT 7.3: TREATMENT OF FAMILY ASSETS [24 CFR 5.603(b]

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

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

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

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

EXHIBIT 7.4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

[24 CFR 5.617]

(a) *Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24

CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

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

Baseline income. The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least $500.

(c) *Disallowance of increase in annual income—*

(1) *Initial twelve-month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of

employment over prior income of that family member.

(2) *Second twelve month exclusion and phase-in.* Upon expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24- month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to *May 9, 2016* will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 7.5: THE EFFECT OF WELFARE BENEFIT REDUCTION

[24 CFR 5.615]

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) *Applicability.* This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

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

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

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

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

Specified welfare benefit reduction.

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

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

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

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

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

(c) *Imputed welfare income.*

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

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of

such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

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

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

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

(d) *Review of PHA decision.*

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) *PHA relation with welfare agency.*

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

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

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

8.0 VERIFICATION

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

The CHA will verify information related to waiting list preferences, eligibility, admission, and level of benefits prior to admission. Periodically during occupancy, items related to eligibility and rent determination shall also be reviewed and verified. Income, assets, and expenses will be verified, as well as disability status, need for a live-in aide and other reasonable accommodations, full-time student status of family members 18 years of age and older, Social Security Numbers, and citizenship/eligible non-citizen status. Age and relationship will only be verified in those instances where needed to make a determination of level of assistance.

8.1. FAMILY CONSENT TO RELEASE 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].

A. 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.

B. 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.

8.2 TIMING OF VERIFICATION

Verification must be dated within sixty (60) days of certification or reexamination. If the verification is older than this, the source will be contacted and asked to provide information regarding any changes.

When an interim reexamination is conducted, CHA will verify and update only those elements reported to have changed.

8.3 FREQENNCY OF OBTAINING VERIFICATION

For each family member, citizenship/eligible non-citizen status will be verified only once. This verification will be obtained prior to admission. If the status of any family member was not determined prior to admission, verification of their status will be obtained at the next regular reexamination. Prior to a new member joining the family, their status will be verified.

For each family member age 6 and above, verification of Social Security Number will be obtained only once. This verification will be accomplished prior to admission. When a family member who did not have a Social Security Number at admission receives a Social Security Number, that number will be verified at the next regular reexamination. Likewise, when a child turns six, their verification will be obtained at the next regular reexamination.

8.4 VERIFYING FAMILY IINFORAMTION

A. Verification of Preference Status

The CHA must verify any preferences claimed by an applicant that determined placement on the waiting list. If an applicant is found to not qualify for the preference as stated on the application, the family will be denied assistance, and be offered the opportunity to be placed back on the waiting list without the preference; or be mailed a denial letter.

1.) Insufficient Funding

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

2.) Displaced Family Local Preference:

Families displaced as a result of natural disaster or government action shall be given preference over families consisting of two or more, and non-elderly, nonhandicapped/disabled single persons. The following documentation will be used to verify displacement status:

- Letter from a unit of government concerning displacement due to natural disaster.
- Letter from a unit of government concerning displacement due to code enforcement or public improvement/development or displacement by inaccessibility of a unit.

3.) VAWA

CHA also offers a preference for victims of domestic violence, dating violence, sexual assault, or stalking. To verify that applicants qualify for the preference, CHA will follow documentation requirements outlined in VAWA

CHA may verify the priority of a victim of domestic violence through a referral from a domestic violence service provider.

4.) Residency

CHA will verify a residency preference for CHA's jurisdiction through:

- copy of Picture ID; or
- copy of current lease and/or utility bill; or
- self-certification.

5.) Veteran

A copy of the applicants DD-214 form.

B. Verification of Legal Identity

The CHA 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	Certificate of birth
Church issued baptismal certificate	Adoption papers
Current, valid driver's license or Department of Motor Vehicles identification card	Custody agreement
U.S. military discharge (DD 214)	Health and Human Services ID
Current U.S. passport	Certified school records
Current government employer identification card with picture	

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

If none of these documents can be provided and at the CHA'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 CHA and be signed in the presence of a CHA representative or CHA notary public.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where CHA has reason to doubt the identity of a person representing him or herself to be a participant.

1.) Social Security Numbers [24 CFR 5.216, Notice PIH 2018-24]

The family must provide documentation of a valid social security number (SSN) for each member of the household, except for individuals who do not contend eligible immigration status. 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.

The CHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

CHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

- CHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to CHA within 90 days.

The CHA 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.

- CHA 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 SSN disclosure and documentation requirements upon expiration of the provided time period, CHA will terminate the individual's assistance.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it.

- The CHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the CHA determines that

the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the CHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

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

2.) Citizenship or Eligible Immigration Status [24 CFR 5.508]

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.

The family must complete a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit required documentation.

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)]*

a.) U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national.

- Declaration of Section 214 Status (guardian may sign for minor)
- Original Birth Certificate, passport, or naturalization card

b.) 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 noncitizens 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 8-1 at the end of this chapter summarizes documents family members must provide.

CHA 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. No further verification of eligible immigration status is required.

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

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

3.) 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.

- If an official record of birth or evidence of social security retirement benefits cannot be provided, CHA 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.

Age must be verified only once during continuously assisted occupancy.

C. Verification of Student Status

CHA requires families to provide information about the student 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 cohead.
- The family reports childcare expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education.*

1.) Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

In accordance with the verification hierarchy described in section 7-1.B, the CHA 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 was receiving assistance prior to November 30, 2005.

If CHA cannot verify at least one of these exemption criteria, CHA 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, CHA 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).

2.) Independent Student

CHA 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 the following:

- Either reviewing and 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*

- Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student*

- 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, except in cases in which CHA determines that the student is a *vulnerable youth*

D. Documentation of Disability

The CHA must verify the existence of a disability to allow certain income disallowances and deductions from income.

- The CHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)].

- The CHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition.

- If the CHA receives a verification document that provides such information, the CHA will not place this information in the tenant file.

- Under no circumstances will the CHA 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 http://www.hhs.gov/ocr/privacy/.

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

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

- Inquiry 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
- Inquiry 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].

For family members claiming disability who receive disability benefits from the SSA, CHA 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, the CHA 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), the PHA 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 CHA.

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 5.403.

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. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

E. Family Relationships

Applicants and program participants are required to identify the relationship of each household member to the head of household.

Marriage

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

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

Separation or Divorce

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

CHA may require that the family provide evidence to support that the person is no longer a member of the family (i.e., documentation of another address at which the person resides such as a lease or utility bill).

Absence of Adult Member

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

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

8.5. VERIFICATION OF FAMILY INCOME AND ELIGIBLE DEDUCTIONS

A. HUD's Verification Hierarchy [Notice PIH 2018-18]

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. CHA is to use the most reliable form of verification that is available and to document the reasons when CHA uses a lesser form of verification.

In order of priority, the forms of verification that the CHA will use are:

1) Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
2) Written Third-Party Verification (may be provided by applicant or participant)
3) Written Third-party Verification Form

4) Oral Third-party Verification

5) Self-Certification

Requirements for Acceptable Documents

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 days of CHA request. The documents must not be damaged, altered or in any way illegible.

CHA 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, CHA would accept the most recent report.

Printouts from Web pages are considered original documents.

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

File Documentation

The CHA 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 the CHA has followed all 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.

CHA 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 adjusted income

When the CHA is unable to obtain third-party verification, the CHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2); Notice PIH 2018-18].

B. Up-Front Income Verification (UIV)

CHA 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.

EIV Income and IVT Reports

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

- CHA will obtain income and IVT reports for annual reexaminations monthly. Reports will be generated as part of the regular reexamination process.
- Income and IVT 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.

Income and IVT 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 earned income, and to verify and calculate 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 and IVT reports will be retained in participant files with the applicable annual or interim reexamination documents.

When CHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies.

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.

CHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* monthly.

CHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When CHA determines that discrepancies exist due to CHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

C. Third-Party Written and Oral Verification

HUD's current verification hierarchy defines two types of written third-party verification. The 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 CHA by the family. If written third-party verification is not available, CHA must attempt to obtain a "written third-party verification form.

1.) Written Third-Party Verification [Notice PIH 2018-18]

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 CHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.
    - At CHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), CHA may request additional paystubs or a payroll record.
- The CHA 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.
- Third-party documents provided by the family must be dated within 60 days of the CHA request date.

2.) Written Third-Party Verification Form

When upfront verification is not available and the family is unable to provide written third-party documents, the CHA must request a written third-party verification form.

- CHA may mail, fax, or email third-party written verification form requests to third-party sources.

3.) Oral Third-Party Verification [Notice PIH 2018-18]

For third-party oral verification, CHA contacts 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.

- CHA will 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.

4.) Document Review [Notice PIH 2018-18]

- **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.

- **Imputed Assets**

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

- **Value of Assets and Asset Income [24 CFR 982.516(a)]**

  For families with net assets totaling $5,000 or less, the CHA may accept the family's declaration of asset value and anticipated asset income. However, the CHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

5. Self-Certification

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

When CHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

- The self-certification must be made in a format acceptable to CHA 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 CHA representative**.**

8.6 VERIFYING INCOME AND ASSETS

A. Earned Income

Seasonal Wages

When a household member works seasonal work (i.e. farming), the member's wages will be based upon their prior year's W-2 and unemployment earnings.

Tips

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.

Wages

For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs *and/or the prior year's W-2*.

B. Business and Self Employment

Business owners and self-employed persons will be required to provide:

- ❖ All schedules (Schedule C) completed for filing federal and local taxes in the preceding year.

At any reexamination CHA 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, CHA 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 CHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

C. Social Security/SSI Benefits

Applicants

- To verify the SS/SSI benefits of applicants, CHA 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), CHA will help the applicant request a benefit verification letter from SSA's Web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213.
    - Once the applicant has received the benefit verification letter, they will be required to provide it to CHA.

Participants

- To verify the SS/SSI benefits of participants, CHA will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, CHA 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) the CHA will help the participant request a benefit verification letter from SSA's Web site at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213.
    - Once the participant has received the benefit verification letter, they will be required to provide it to CHA.

D. Alimony/Child Support

The methods CHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

Regular Payments

If the family declares that it receives regular payments, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 60 days prior to PHA request
- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self-certification of amount received

Irregular Payments

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.

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. The CHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

CHA will verify the value of assets disposed of only if:

- CHA 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 the PHA verified this amount. Now the person reports that she has given this $10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification 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, the PHA will verify the value of this asset.

F. Net Income from Rental Property

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, CHA 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.

G. Retirement Accounts

CHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

- ***Before* r**etirement, CHA 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, CHA 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, CHA 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.
-

H. Income from Excluded Sources

For fully excluded income, the CHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058.

CHA may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, CHA has the option of requiring additional verification.

For partially excluded income, CHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058.

I. Zero Annual Income Status

CHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.

- The family will be required to sign a No Income form

J. Student Financial Assistance [Notice PIH 2015-21]

Under the age of 23.

Any financial assistance, in excess of amounts received for tuition, fees, and other required charges that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

- 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), CHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.
- In addition, the CHA will request written verification of the student's tuition, fees, and other required charges amount.
- If the CHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification

Over the age of 23

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)].

The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 8-2). Excluded

amounts are verified only if, without verification, the CHA would not be able to determine whether or to what extent the income is to be excluded.

K. Parental Income of Students Subject to Eligibly 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 or a *vulnerable youth* in accordance with CHA Policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

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.

If CHA is required to determine the income eligibility of a student's parents, CHA will request an income declaration and certification of income from the appropriate parent(s) (as determined in section 3-II.E). CHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to CHA. The required information must be submitted (postmarked) within 10 business days of the date of the PHA's request or within any extended timeframe approved by CHA.

CHA 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.

8.7 VERIFYING MANDATORY DEDUCTIONS

A. Dependent and Elderly/Disabled Household Deductions

The dependent and elderly/disabled family deductions require only that the CHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

The CHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead 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

CHA must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

B. Medical Expense Deduction

Amount of Expense

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- CHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. CHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, the CHA 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 cohead is at least 62, or a person with disabilities. The CHA must verify that the family meets the definition of an elderly or disabled family.

Qualified Expenses

To be eligible for the medical expense's deduction, the costs must qualify as medical expenses.

Unreimbursed Expenses

To be eligible for the medical expense's deduction, the costs must not be reimbursed by another source.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, the CHA 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

C. Disability Assistance Expenses

Attendant Care

CHA will accept written third-party documents provided by the family.

If family-provided documents are not available, CHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as 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.
- Third-party verification form signed by the provider if family-provided documents are not available.
- If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the CHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities.
- The expense permits a family member, or members, to work.
- The expense is not reimbursed from another source.

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. The CHA will verify that the expense is incurred for a person with disabilities

Family Member(s) Permitted to Work

The CHA must verify that the expenses claimed enable a family member, or members, (including the person with disabilities) to work.

CHA will request 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 (See 6-II.E.). This documentation may be provided by the family.

If third-party 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.

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.

D. Childcare Expenses

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The CHA will verify that the child being cared for (including foster children) is under the age of 13.

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

The family (and the care provider) will be required to certify that the childcare expenses are not paid or reimbursed to the family from any source.

The family will be required to certify that the childcare expenses are not paid or reimbursed to the family from any source.

Pursuing an Eligible Activity

The CHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are pursuing those activities.

- **Information to be Gathered**

  CHA 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 CHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases CHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to CHA any reports provided to the other agency.

  In the event third party verification is not available, CHA will provide the family with a form on which the family member must record job search efforts. CHA will review this information at each subsequent reexamination for which this deduction is claimed.

- **Furthering Education**

  CHA will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

  In the event third party verification is not available, or timely, CHA will require the family member to provide an original printout of his/her class schedule that provides information about the days and timing of classes.

- **Gainful Employment**

  CHA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. 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. The documentation may be provided by the family.

Allowable Type of Childcare

The type of care to be provided is determined by the family but must fall within certain guidelines.

CHA will verify that the type of childcare selected by the family is allowable.

CHA 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**).**

CHA will verify that the childcare 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.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

The actual costs the family incurs will be compared with CHA'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, CHA will request additional documentation, as required**,** to support a determination that the higher cost is appropriate.

EXHIBIT 8.1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]

<table>
<tr><td colspan="2">

- **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.

</td></tr>
<tr><td colspan="2">

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.

</td></tr>
<tr><td colspan="2">

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

</td></tr>
<tr><td>

- 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"

</td><td>

- 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).

</td></tr>
<tr><td>

- Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".

</td><td>

- Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

</td></tr>
<tr><td colspan="2">

- 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*

</td></tr>
</table>

EXHIBIT 8-2 TYPES AND OF VERIFICATIONS

The following chart comes from PIH Notice 2010-19.

Level	Verification Technique	Ranking
6	**Up-front Income Verification (UIV)** using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	**Highest** (Mandatory)
5	**Up-front Income Verification (UIV)** using non-HUD system	**Highest** (Optional)
4	**Written Third-Party Verification**	**High** (Mandatory to supplement EIV reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when participant disputes EIV-reported employment and income information **and** is unable to provide acceptable documentation to support dispute)
3	**Written Third-Party Verification Form**	**Medium-Low** (Mandatory if written third party verification documents are not available or rejected by the PHA; and when the applicant or participant is unable to provide acceptable documentation)

	First	Second	Third	Fourth	Last
Full-time Student			Letter from school		
Disability			Letter from medical professional	**Proof of SSI or Social Security Disability payments**	

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	First	**Second**	**Third**	**Fourth**	**Last**
Wages/Salaries		Verification directly from employer (i.e. fax, email, mail).	Verification from employer via phone.	Pay Stubs; W-2	Notarized statement or affidavit from the tenant that declares the family's total annual income
Effective Date of Employment: The CHA will confirm start and termination dates of employment.					

	First	Second	Third	Fourth	Last
Self-Employment				Schedule C;	Notarized statement or affidavit from the tenant that declares the family's total annual income.
Verification of Self-Employment Income: Typically, it is a challenge to obtain third party verification of self-employment income. When third party verification is not available, the CHA WLL request a notarized tenant declaration that includes a perjury statement.					

	First	Second	Third	Fourth	Last
Social Security Benefits	EIV	Verification received directly from SSA.	Verification from SSA via phone.	SSA benefit Letter	Notarized statement or affidavit from the tenant that declares monthly social security benefits.
Gifts			Letter from source	Bank deposits	
Welfare Benefits		Verification received directly from Welfare Agency (i.e. fax, mail)	Verification from welfare agency via phone	Welfare benefit letter	Notarized statement or affidavit from the tenant that declares monthly welfare benefits.
Child Support		Verification directly received Welfare Agency (i.e. fax, mail)	Verification from welfare agency via phone	Welfare benefit letter – 6 months' worth	Notarized statement or affidavit from the tenant that declares monthly welfare benefits.
Unemployment Benefits	.	Verification received directly from Unemployment (i.e. fax, mail)	Verification from Unemployment via phone	Unemployment benefit letter	Notarized statement or affidavit from the tenant that declares maximum benefits.

	First	Second	Third	Fourth	Last
Pensions		Verification received directly from source (i.e. fax, mail)	Verification from source via phone	Family provides benefit document	Notarized statement or affidavit from the tenant that declaring
Assets		Verification received directly from source (i.e. fax, mail)	Verification from source via phone	Family provides benefit document	Notarized statement or affidavit from the tenant that declaring
Savings/Checking			Letter from bank if amount is $6,000 or more. If under $5,000 can self-certify, but must verify every three years	Most current statement	
CD/Bonds, etc.			Letter from bank	Tax Return; CD brochure	
Stocks			Letter from bank	Stock or most current statement	
Real Property			Letter from tax office	Property tax bill	
Life Insurance			Letter from insurance company	Current Statement	
Assets Disposed of, less than Market Value				Original receipt and receipt at disposition.	

	First	Second	Third	Fourth	Last
Medical Expense			Prescription record from pharmacy		
Need for Live-In Aide			Accommodation form received from Medical Provider		
Disability Expense			Letters from supplies, care givers	Bills and receipts	
Childcare Cost			Letter from care provider	Bills and receipts	

9.0 RENT REASONABLENESS AND RENT CALCULATIONS

9.1 RENT REASONABLENESS [24 CFR 982.507]

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.

A. When Rent Reasonableness Determinations are Required

The CHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

1.) Initial Occupancy

The owner and family first negotiate the rent for a unit. The CHA will assist the family with the negotiations upon request.

CHA 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.

2.) After Initial Lease Up

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease.

For rent increases, CHA may request owners to provide information about the rents charged for other units on the premises. In evaluating the proposed rents in comparison to other units on the premises CHA will consider unit size and length of tenancy in the other units.

CHA 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.

- CHA will process only one rent increase within a 12-month period.
- All rents adjustments will be effective the first of the month following 60 days after CHA's receipt of the owner's request or on the date specified by the owner, whichever is later.
- Rent increases will only be approved if the unit passes HQS inspection.

B. How Comparability Is Established

Factors to Consider

The CHA will use the following 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 Comparable

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 [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

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 HAP 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 CHA information regarding rents charged for other units on the premises.

C. CHA Rent Reasonableness Methodology

How Market Data Is Collected

CHA will collect and maintain data on market rents in CHA'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

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. CHA 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, CHA may make adjustments to the range of prices to account for these differences.

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).

CHA will notify the owner of the rent CHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. CHA 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 CHA's request for information or the owner's request to submit information.

9.2 CALCULATING FAMILY SHARE AND CHA SUBSIDY

A. Overview of Rent and Subsidy Calculations

1.) Total Tenant Payment [24 CFR 5.628]

The total tenant payment (TTP) is the highest of the following amounts, rounded to the nearest dollar:

a) 10% of the family's monthly gross income

b) 30% of the family's monthly adjusted income

c) Minimum rent

The CHA has the authority to suspend and exempt families from the mi mum rent a financial hardship exist.

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.

2.) 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 CHA's applicable payment standard:

a) the family will pay more than the TTP, and

b) 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.

3.) CHA Subsidy [24 CFR 982.505(b)]

The CHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of

a.) The applicable payment standard for the family minus the family's TTP; or

b.) The gross rent for the family's unit minus the TTP

4.) Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]

When the CHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement.

- CHA will make utility reimbursements to the family.
- CHA will issue all utility reimbursements monthly.

B. Financial Hardships Affecting Minimum Rent [24 CFR 5.630]

The financial hardship exemption applies only to families required to pay the minimum rent, of $50.00. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If CHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

1.) Financial Hardship Criteria

A financial hardship includes the following situations.

a.) When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State or local assistance program;

- A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.
- Loss of eligibility due to fraud will not be considered a hardship under this circumstance

b.) When the family would be evicted because it is unable to pay the minimum rent; requirement;

- For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

c.) When the income of the family has decreased because of changed circumstances, including loss of employment;

- For a family to qualify under this provision, the loss of employment (or source of income) must have been involuntary, and the income in question must have been included in the calculation of the family's annual income.

d.) When a death has occurred in the family

- To qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

2.) Determination of Hardship

When a family requests a financial hardship exemption, CHA must suspend the minimum rent requirement beginning the first of the month following the family's request. CHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

❖ CHA 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 $50.	
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
$50 Minimum rent	$50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

- To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

- CHA will make the determination of hardship within 30 calendar days.

3.) No Financial Hardship

- ❖ If the CHA determines there is no financial hardship, CHA will reinstate the minimum rent and require the family to repay the amounts suspended within 30 calendar days of CHA's notice that a hardship exemption has not been granted.

4.) Temporary Hardship

If CHA determines that a qualifying financial hardship is temporary, CHA will suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay CHA the amounts suspended

- ❖ CHA will enter into a repayment agreement in accordance with the procedures

CHA also may determine that circumstances have changed, and the hardship is now a long-term hardship.

5.) Long-Term Hardship

If CHA determines that the financial hardship is long-term, CHA 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.

- The hardship period ends when any of the following circumstances apply:
  - At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
  - 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.
  - 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.

6.) Appeals.

The family may use the informal hearing procedure to appeal the CHA's determination regarding the hardship.

C. Applying Payment Standards [24 CFR 982.505; 982.503(b)]

The CHA's schedule of payment standards is used to calculate housing assistance payments for HCV families.

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.

The CHA 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 CHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

1.) Changes in Payment Standards

Decreases

If CHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, CHA will not reduce the PS, if the HAP contract remains in effect [FR Notice 11/16/16].

However, if CHA does choose to reduce the PS for families currently under HAP contract, the initial reduction to the PS will not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the PS amount

In any case, the CHA must provide the family with at least 12 months' notice that the PS is being reduced before the effective date of the change. The CHA's policy on decreases in the PS during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the PS within the designated area.

Increases

If the PS is increased during the term of the HAP contract, the increased PS 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 PS.

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

Changes in Family Unit Size (Voucher 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 PS for the family beginning at the family's first regular reexamination following the change in family unit size.

Family Changes Unit

When the family choses to move into a different unit, the new family unit size must be used to determine the PS for the family at the beginning of the new HAP Contract.

2.) Reasonable Accommodation

- If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, CHA may approve a payment standard not more than 120% of the FMR as a reasonable accommodation for a family that includes a person with disabilities (PIH 2013-3, PIH 2013-18).

D. Applying Utility Allowances [24 CFR 982.517]

An established utility allowance schedule is used in determining family share and CHA subsidy. A family's utility allowance is determined by:

1.) The size of dwelling unit leased by a family; or

2.) The voucher unit size for which the family qualifies using CHA subsidy standards, whichever is the lowest of the two.

Utility Allowance Calculation

The utility allowance will be subtracted from the family's share to determine the amount of the Tenant Rent. The Tenant Rent is the amount the family owes each month to the owner. The amount of the utility allowance is then still available to the family to pay the cost of their utilities. Any utility cost above the allowance is the responsibility of the tenant. Any savings resulting from utility costs below the amount of the allowance belong to the tenant.

In certain instances, the utility allowance will exceed the minimum rent paid by the tenant. In such instances, the CHA will pay the utility allowance directly to family.

Reasonable Accommodation

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

The family must request the higher allowance and provide the CHA 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 current utility allowance schedule [HCV GB, p. 18-8].

- 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

E. Probated 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 CHA must prorate the assistance provided to a mixed family.

The CHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that are eligible. For example, if the CHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the CHA subsidy would be reduced to $250.

10.0 HOUSING QUALITY STANDARDS

[24 CFR 982 Subpart I and 24 CFR 982.507]

The CHA will inspect all units to ensure that they meet Housing Quality Standards (HQS). No unit will be initially placed on the voucher program unless the HQS is met. Units will be inspected at least bi-annually, and at other times as needed, to determine if the units meet HQS.

The CHA must be allowed to inspect the dwelling unit at reasonable times with reasonable notice. The family and owner will be notified of the inspection appointment by first class mail. If the family cannot be at home for the scheduled inspection appointment, the family must call and reschedule the inspection or make arrangements to enable CHA to enter the unit and complete the inspection.

If the family misses the scheduled inspection and fails to reschedule the inspection, the CHA will only schedule one more inspection. If the family misses two inspections, the CHA will consider the family to have violated a Family Obligation and their assistance may be terminated.

10.1 TYPES OF INSPECTIONS

There are seven types of inspections the CHA will perform:

1. Initial inspection - An inspection that must take place to ensure that the unit passes HQS before assistance can begin.

2. Annual inspection - An inspection to determine that the unit continues to meet HQS.

3. Re-Inspections - An inspection for the purpose of verifying that deficiencies noted in the previous inspection have been corrected and meet HQS.

4. Complaint inspection - An inspection done by CHA because receives a complaint on the unit by tenant or an owner/landlord.

5. Special inspection - An inspection caused by a third party, i.e., HUD, needing to view the unit.

6. Emergency - An inspection that takes place in the event of a perceived emergency. These will take precedence over all other inspections.

7. Quality Control inspection - Supervisory inspections on at least 5% of the total number of units that were under lease during CHA's previous fiscal year.

Remote Video Inspections (RVIs) [Notice PIH 2020-31]

As an alternative to some or all on-site inspections, the CHA may perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides

insufficient information or evidence to allow the CHA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31

10.2 HOUSING QUALITY STANDARDS (HQS) [24 CFR 982.401, Notice PIH 2012-33; Maine Universal Building and Electric Code (MUBC) and Life Safety Code (NFPA 101)]

This Section states performance and acceptability criteria for these key aspects of the following housing quality standards:

Sanitary Facilities

1.) Performance Requirement

The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

2.) Acceptability Criteria

a.) The bathroom must be in a separate private room and have a flush toilet in proper operating condition.

- All worn or cracked toilet seats and tank lids must be replaced, and toilet lids must fit properly.
- Large cracks in the enamel are not allowed.

b.) The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.

- All sink drains must have a gas trap installed.

c.) The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.

- All showers and tubs must not have any large cracks in the enamel or in the caulking.
- The shower head flange must be securely attached to the wall.

d.) The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

Food Preparation and Refuse Disposal

1). Performance Requirements

a.) The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.

b.) There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

2.) Acceptability Criteria

a.) The dwelling unit must have an oven, a stove or range, and a refrigerator of appropriate size for the family. All the equipment must be in proper operating condition. Either the owner or the family may supply the equipment. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized tenants in the building or premises.

- Refrigerator gaskets must be intact and have a good seal.
- Drip pans for electric stoves are required due to fire hazard.

b.) The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.

- All sink drains must have a gas trap installed.

c.) The dwelling unit must have space for the storage, preparation, and serving of food.

- There should not be any large cracks or holes, in the countertop.

d.) There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).

Space and Security

1.) Performance Requirement

The dwelling unit must provide adequate space and security for the family.

2.) Acceptability Criteria

a.) At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.

b.) The dwelling unit should have at least one bedroom or living/ sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.

- Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.

c.) The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

- 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.

e.) All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

e.) All doors designed with knobs should have all knobs present and in working condition.

f.) All closets designed with doors should have all knobs present and in working condition.

- All closets designed with doors must be in working condition

g.) Double-key deadbolts are not allowed to be installed in any egress door of a unit or common areas of the building that provide mutual access.

Thermal Environment

1.) Performance Requirement

The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.

2.) Acceptability Criteria

a.) There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, to assure a healthy living environment appropriate to the climate.

- The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 1 and May 1.

b.) The dwelling unit must not contain un-vented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

c.) Fireplaces within a unit cannot be used unless CHA receives written documentation of an annual inspection by the local fire department inspector.

d.) All oil and gas furnaces and boilers must be serviced annually, and a dated inspection/service tag must be affixed to the furnace/boiler or hung in the immediate vicinity.

- All service work must be done by a licensed professional.

Illumination and Electricity

1.) Performance Requirement

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. The electrical fixtures and wiring must ensure safety from fire.

2.) Acceptability Criteria

a) There must be at least one openable window in the living room and in each sleeping room.

b) The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.

c) The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

d) Working ground-fault circuit-Interrupter (GFCI) protection must be installed or all outlets in the following locations: bathrooms, outlets installed to serve countertops in kitchens, outdoors (must also be covered), crawl spaces at or below grade, garages and accessory buildings located at or below grade, sinks in other areas other than the kitchen where receptacles are installed within 6 feet of the outside edge of the sink.

- GFCI outlets that do not trip when tested with tester, will be a “Fail. If the GFCI outlet is not grounded (i.e. due to age of unit), it must be labeled properly – “Not Grounded”.

e) Electrical wiring:

- No extension cord wiring used as permanent wiring.
- No open wires, all wires must be in approved conduit to code and property covered in a junction box where appropriate**.**

f) In assessing stairway lighting, all treads and risers must be illuminated.

Structure and Materials

1.) Performance Requirement

The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

2.) Acceptability Criteria

a.) Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.

- Ceilings –
  - In areas where plaster or drywall is severely sagging, cracked (larger than 1/8" wide or longer than 11"), has holes (larger than a quarter), it must be repaired or replaced and primed to match existing ceilings. There shall be no missing ceiling tiles and if they are stained, they need to be replaced or painted
- Floors
  - All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.
  - All floors must be in a *clean*, finished state. *Carpet or vinyl products must be free of holes and trip hazards.* Raw wood, *sub floors* 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.
- Walls
  - In areas where plaster or drywall is severely sagging, buckling, bulging, cracked (larger than 1/8" wide or longer than 11"), has holes (larger than a quarter), it must be repaired or replaced and primed

b.) Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced. All windows must have trim intact.

- Windows in bathrooms, if located within bathtub, must be safety glass.
- 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).
- At least one window in any room used for sleeping shall be an egress window.
  - Any building constructed before 1976 will be allowed to meet the following specifications: the net clear opening would be allowed to meet the minimum 20" in width and 24" in height with a total net clear opening of 3.3 square feet; if the window is constructed of wood or vinyl and overall window sash size meets a minimum of 5.0 square feet. The window shall meet all other requirements for an egress window as specified in NFPA 101 Life Safety Code as adopted by the Office of State Fire Marshal. Any replacement window installed in a building constructed before 1976 shall meet the same requirements as the existing windows and shall not reduce the existing net clear opening below the minimum requirements.
  - Any building constructed after 1976 shall be required to comply with the requirement to provide 5.7 square feet of net clear opening with a minimum width of 20" and a minimum height of 24". The window shall also meet all other requirements for egress windows contained in NFPA 101 Life Safety Code. Any replacement windows installed in a building constructed after 1976 shall be required to meet the net clear opening of 5.7 square feet. This shall be measured with the window in its natural open position.
- If an egress window fails CHA's inspection but is inspected by the local fire chief or local code enforcement officer, and they provide a letter in writing stating they approve the window, CHA will accept the letter and pass the window.

c.) All interior and exterior stairs, halls, porches, and walkways must be free from safety hazards to the occupant, such as: loose, broken or missing steps on stairways, absent or insecure railings, ripped, torn or frayed stair coverings, missing sections of vertical railings, inadequate lighting, or other unnamed hazards.

- A handrail is required on extended sections of stairs (three more consecutive steps).

- Exposed sides of stairs, more than 3 steps (30") above the ground/floor must have railing, guard, wall, or panel.

e**.)** Porches/decks more than 30" above the grade level shall be provided with safety rails

f.) Concrete walks, steps, patios, etc. must be free of large cracks and/or breaks which could cause tripping.

g.) The roof must be structurally sound and weather tight.

- The roof cannot have missing or curled shingles and must be free from water leakage.

h.) Gutters and downspouts must channel water way from the exterior walls and foundation and be free of rot, peeling paint, or excessive rust. There must be approved joist hangers and framing anchors to secure carport roof rafters to fascia

i.) The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.

- Exterior walls and trim must be painted and free from repair needs or hazards.

- Exterior surfaces must not contain large cracks, falling or missing masonry, rotten, splintered, or split woodwork or peeling and flaking paint.

- Exterior surfaces may not be deteriorated to the point that would expose occupant to water, serious drafts, or structural collapse.

j.) The chimney must be sound and free from hazards. Assure that the chimney is capable of safely carrying smoke, fumes, and gasses from the unit to the outside. Ducts and vents shall be tightly sealed. Chimney must not be seriously leaning and not missing bricks or mortar**.**

k.) Elevators must be working and safe.

Interior Air Quality

1.) Performance Requirement

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

2.) Acceptability Criteria

a) The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.

b) There must be adequate air circulation in the dwelling unit.

c) Bathroom areas must have one window that can be opened or other adequate exhaust ventilation.

d) Any room used for sleeping must have at least one window. If the window is designed to be opened, the window must work.

e) Although some mold presence is normal, mold amplification is not. The unit must be free from abnormally high levels of air pollution caused by carbon monoxide sewer gas, fuel gas, dust, or other harmful pollutants. Although HUD does not specifically address such items as mold, radon or asbestos, CHA will categorize under "harmful pollutants".

Water Supply

1.) Performance Requirement

The water supply must be free from contamination.

2.) Acceptability Criteria

The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

Access

1.) Performance Requirement

The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

Site and Neighborhood

1.) Performance Requirement

The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

2.) Acceptability Criteria

The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air

pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.

Any vehicle situation on the property in a condition to pose a threat to the health and safety of the residents and/or neighbors must be removed

Sanitary Condition

1.) Performance Requirement

The dwelling unit and its equipment must be in sanitary condition.

2.) Acceptability Criteria

The dwelling unit and its equipment must be free of vermin and rodent infestation (including but not limited to flees, bed bugs and roaches). If bed bugs are present it is the landlord's responsibility to treat the unit.

a) Upon report of bed bugs in a unit, CHA will send written notification of the report to the tenant and owner including a copy of Maine Statute specific to treatment of bedbug infestation. Owners will be required to show proof of treatment performed by a licensed pest control company within 30 days and to continue to provide proof of treatment monthly until the unit is cleared of bed bugs.

b) The Owner will have no more than 6 months from the date of Caribou Housing's notification letter to clear the unit of bedbugs or the unit will be abated.

c) Failure by the Owner to follow guidelines may result in the abatement of rent and termination of the HAP Contract.

d) Failure of the family to cooperate and follow pest control guidelines and procedures may result in termination of Voucher assistance.

e.) CHA Housing Inspectors will not perform an inspection in a unit where bed bug infestation has been reported.

Smoke Detectors

1.) Performance Requirements

Each dwelling unit must have at least one battery-operated and hardwired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. 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 hearing-impaired person, smoke detectors must have an alarm system, designed for hearing impaired persons as specified in NFPA 74 (or successor standards).

- Tenants shall keep the smoke detector in working condition, testing them periodically to ensure that they work and refrain from disabling them.

Carbon Monoxide Detector

1). Performance Requirement

Carbon Monoxide Detectors must be installed within 15 feet of all bedrooms and powered by both electrical service and battery backup or a non-replaceable 10-year battery.

Upon the request of a deaf or hard of hearing occupancy, the owner of a dwelling unit shall provide an approved CO detector within the dwelling unit. If the owner does not provide a suitable CO detector, the occupancy may purchase, install, and maintain a suitable CO detector for themselves, and deduct the cost from the rent.

- Tenants shall keep the carbon monoxide detector in working condition, testing them periodically to ensure that they work and refrain from disabling them.

Tenant Preference Items

HUD requires CHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, CHA 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.

10.3 ADDITIONAL REQUIREMENTS

HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

Access within Unit

Personal items must be organized so there are clear paths to all areas of the unit.

Adult Presence

CHA inspectors will not conduct an HQS inspection without a person 18 years of age or older present in the unit.

Basements

All basements and utility rooms must be accessible at the time of inspection.

Bathrooms

- In a single bedroom unit, the bathroom may be off the bedroom.
- In a multi bedroom unit, the bathroom must have access from common areas, such as a hall.

Bedrooms

- All bedrooms shall have access from common areas, such as a hall within the dwelling. It shall not be necessary to travel through another bedroom or bathroom to enter a bedroom.
- Bedrooms in basements or attics are not allowed unless they meet local fire and City Code requirements and must have adequate ventilation and an emergency exit capability.
- Must have a door for privacy.

Clutter/Debris/Housekeeping

Clutter, excessive debris, or garbage conducive to unsafe or unsanitary conditions, infestation of rodents or insects, or a fire hazard or would impede an inspection must be corrected or will result in an HQS fail.

Remove excessive glass, trash, junk cars, discarded furniture, appliances and other debris from property and alleyways.

Digital Photos of Inspections

CHA will take digital phots at inspections including initial, annual, special, quality control, and re-inspection when there is a possible deficiency that is in question and/or documentation is needed for further reference.

Health Concerns

CHA inspectors may choose to not perform an inspection, when scheduled, if they determine that a unit contains any health hazards (i.e. flu, blood, etc.) that may constitute a threat to their health and safety.

The unit will be rescheduled later, to give the participant a chance to clean up the health containments.

Licensed Professionals

All work on units resulting from a failed inspection must be completed by a state licensed professional if so, required by law. This includes, but is not limited to, electrical, plumbing, and oil and soil fuel as applicable.

CHA reserves the right to request that owners provide written documentation of professional completion.

The exception to this rule is, a Property Owner/Manager may do the following work without hiring a licensed professional:

- Electrical Work: replacing outlet covers and light switch plates
- Plumbing Work: replacing plumbing fixtures

House/Apartment Numbers

All units and buildings must be clearly and properly numbered per City of Caribou 911 Ordinance.

Paint

Deteriorated interior and exterior surfaces must be treated and stabilized using lead-safe work practices as appropriate. A deteriorated surface is paint or any other coating that is peeling, chipping, chalking, or cracking or otherwise damaged or separated from the substrate

Any required lead-based paint testing will be conducted by a certified lead-based paint inspector. CHA will not abate Housing Assistance Payments if the Owner is complying with the State plan for treatment. If the Owner fails to comply with the State plan, CHA will abate Housing Assistance Payments retroactive to the expiration date of the original 30-day notice.

Storage Units/Shed/Garage

Storage units of all types at single family homes or attached to units shall be exclusively for the use of the tenant unless otherwise agreed to by tenant in the lease. Minimum landlord items specific to the tenant's unit maintenance is all that should be stored at the property during the life of the lease.

10.4 LIFE-THREATENING CONDITIONS [24 CFR 982.404(a); FR Notice 1/18/17]

HUD requires the CHA to define life-threatening conditions and to notify the owner and/ or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of CHA notification.

The following are considered life-threatening conditions:

a.) Any condition that jeopardizes the security of the unit

a) Major plumbing leaks or flooding, waterlogged ceiling, or floor in imminent danger of falling

b) Natural or LP gas or fuel oil leaks

- A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled

c) Any electrical problem or condition that could result in shock or fire

- A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed
- A light fixture is hanging by its wires
- A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit
- A receptacle (outlet) or switch is missing or broken, and electrical connections or wires are exposed
- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses
- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections
- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire
- Exposed bare wires or electrical connections
- Any condition that results in openings in electrical panels or electrical control device enclosures
- Water leaking or ponding near any electrical device
- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition

d) Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.

e) Utilities not in service, including no running hot water

f) Conditions that present the imminent possibility of injury

g) Obstacles that prevent safe entrance or exit from the unit

- Any components that affect the function of the fire escape are missing or damaged
- Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency
- The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency

h) Absence of a functioning toilet in the unit

i) Inoperable or missing smoke detectors

j) Missing or inoperable carbon monoxide detector

k) Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)

l) Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting

- The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases
- A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
- A fuel-fired space heater is not properly vented or lacks available combustion air
- A non-vented space heater is present
- Safety devices on a fuel-fired space heater are missing or damaged
- The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas
- Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit

If an owner fails to correct life-threatening conditions as required by CHA, CHA will enforce the HQS in accordance with HUD requirements.

If a family fails to correct a family-caused life-threatening condition as required by CHA, will enforce the family obligations.

10.5. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

A. Owner Responsibility for HQS

1.) The owner must maintain the unit in accordance with HQS.

2.) If the owner fails to maintain the dwelling unit in accordance with HQS, CHA will take prompt and vigorous action to enforce the owner obligations. The CHA's remedies for such breach of the HQS include termination, suspension or abatement of housing assistance payments and termination of the HAP contract.

3.) The CHA will not make any housing assistance payments for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the CHA and the correction is verified. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For all other defects the owner must correct the defect within no more than 30 calendar days (or any CHA approved extension).

4.) The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible. Furthermore, CHA may terminate assistance to a family because of the HQS breach caused by the family.

B. Family Responsibility for HQS

1) The family is responsible for a breach of the HQS that is caused by any of the following:

   a) The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;

   b) The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or

   c) Any member of the household or a guest damages the dwelling unit or premises (damage beyond ordinary wear and tear).

2.) If an HQS breach caused by the family is life threatening, the family must correct the defect within no more than 24 hours. For other family-caused defects, the family must correct the defect within no more than 30 calendar days (or any CHA approved extension).

   a.) If the family has caused a breach of the HQS, the CHA will take prompt and vigorous action to enforce the family obligations. AHA may terminate assistance for the family **in accordance with 24 CFR 982.552.**

Note: Under no circumstances will CHA pay for damages caused by the family, back rent or security deposit owed by the family.

10.6 THE INSPECTION PROCESS [24 CFR 982.405]

A. Initial HQS Inspection [24 CFR 982.401(a); FR Notice 1/18/17]

An Initial inspection is the inspection that must take place to ensure that the unit passes HQS before assistance can begin.

1.) Notice and Timing of Inspection

The CHA will schedule a timely inspection of the unit on the date the owner indicates that the unit will be ready for inspection, or as soon as possible thereafter (within 15 days of submission of the RTA).

- If the unit is vacant, CHA will inspect the unit is the presence of the owner or owner's representative.
- If the family is already occupying the unit, the inspection appointment will be made with the family. The landlord is encouraged to be present but is not required.
- CHA will only enter a unit if an adult (18 years of age and older) is present.

2.) Inspection Results

If any HQS violations are notified, the owner and family will be notified, within writing, of the deficiencies. The owner will be given 30 calendar days to correct them.

If requested by the owner, in writing, the time frame for correcting the deficiencies may be extended by CHA for good cause. CHA will reinspect the unit within 5 business days of the date the owner notifies CHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any CHA-approved extension) has elapsed, or the unit fails HQS at the time of the reinspection, CHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. CHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

During the winter months, if the unit passes inspection but has exterior work that needs to be completed, CHA may offer an Acknowledgement Form to be signed by the owner and the tenant giving the owner until June 30th to complete the work. A reinspection will be scheduled after June 30th to ensure that the work has been completed.

- If there is a child under the age of six that will be residing in the unit, no exceptions will be granted if the exterior work involves deteriorated paint. Also, no exceptions will be granted if the egress window in the room used for sleeping does not meet NFPA 101 Life Safety Code.

No unit will not be placed in the program until the unit meets HQS.

Utilities

All utilities must be turned on at the initial inspection. Any utilities not in service, will be marked as a fail for the unit.

Appliances [Form HUD-52580]

If the family is responsible for supplying the stove and/or refrigerator, CHA 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 CHA. CHA 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.

B. Annual/Biennial/Special/Complaint/Quality/Control/Emergency HQS Inspections [24 CFR 982.405 and 982.406; Notice PIH 2016-05]

1.) Notice and Timing of Inspections

a.) Annual/Biennial/Quality Control

Each unit under HAP contract must be inspected biennially within 24 months of the last full HQS inspection. The CHA reserves the right to require annual inspections of any unit or owner at any time.

CHA will notify the family and landlord of the CHA's scheduled date and time of the HQS inspection; and that an adult must be present. If an adult cannot be available on the scheduled date and time, the family must request a rescheduled appointment, within 5 business days of the originally scheduled date. CHA may schedule an inspection more than 5 business after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, CHA will automatically schedule a second inspection. If the family misses two scheduled inspections without CHA approval, CHA will consider the family to have violated its obligation to make the unit available for inspection and will start the termination process.

Quality Control

The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspector

b.) Special/Complaint/Emergency

Special/Complaint – If a participant, landlord, or government official reports or request an inspection, CHA will schedule an inspection with 5 days of notification.

Emergency - If a participant, landlord, or government official reports or request an inspection, CHA will schedule an inspection with 24 to 48 hours of notification.

During a Special/Complaint or Emergency inspection, CHA will only inspect those deficiencies that were reported. However, if CHA observes other deficiencies that may be life-threatening, CHA may write those up as well.

2.) Inspection Results

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, CHA will determine (1) whether the failure is a life-threatening condition and (2) whether the family or owner is responsible.

a.) Non-Life-Threatening Repairs

When non-life-threatening deficiencies are identified, CHA 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. Corrections need to be made within 30 calendar days.

The notice of inspection results will inform the owner that if the conditions are not corrected within 30 days (or any CHA-approved extension), the owner's HAP will be abated in accordance with CHA policy.

b). Life-Threatening Repairs

When life-threatening conditions are identified, CHA will immediately notify both parties by telephone or email. The verbal notification must be followed up in writing or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of CHA's notice.

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 CHA-approved extension), the owner's HAP will be abated in accordance with CHA policy.

c.) Family Repairs

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 CHA-approved extension, if applicable) the family's assistance will be terminated in accordance with CHA policy.

3.) Confirmation of Repairs

CHA, at their discretion may conduct a reinspection immediately following the end of the corrective period (or any CHA approved extension) or may accept an Owners' Certification.

a.) Reinspection

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, CHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with CHA policies.

If CHA is unable to gain entry to the unit to conduct the scheduled reinspection, CHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance, if this is a second family caused fail or delay.

b.) Owner's Certification

CHA may verify that correction of HQS violations remotely. CHA may accept an owner's certification, licensed professional's certification, and tenant certification that repairs are complete and verify that the action at the next on-site inspection. CHA will tie the verification process to the severity of the corrections needed and/or is experience with the owner and the property.

CHA may accept photos from the owner to document specific HQS deficiency repairs identified on the inspection form. CHA will determine if submitted photo is acceptable for verification of corrected deficiency.

4.) Extensions

a.) Non -Life Threatening

For conditions that are not life-threatening, CHA may grant an exception to the required time frames for correcting the violation, if CHA determines that an extension is appropriate [24 CFR 982.404].

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

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case by case basis, but will not exceed 30 days, except in the case of delays caused by weather conditions.

In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. These extensions will only be

granted upon the receipt of a written and signed Acknowledgement from the property owner which lists the failed items and the date by which CHA will conduct the re-inspection.

- The necessary repairs must be made within 15 calendar days once the weather conditions have subsided.

- Failure to comply with the Acknowledgement will result in abatement and termination of the HAP payment.

Lack of funds for repairs will not be considered good cause for the delay of a correction by the owner unless the owner can demonstrate that they have applied for loan or grant for which there is a reasonable expectation of funding.

b). Life-Threatening Repairs

For conditions that are life-threatening, CHA will not grant an exception to the required time frames for correcting the violation.

10.7 ENFORCING COMPLIANCE

A. HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the CHA, CHA must abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period the rent was abated.

- In the case of 24 hours fails the abatement will begin immediately after the unit fails inspection.

- Payment will resume effective on the day the owner contacted CHA stating all deficiencies have been rectified. A re-inspection may be scheduled to verify repairs have been completed.

- CHA reserves the right to immediately terminate the HAP contract and issue the participant a voucher to move if the unit is uninhabitable.

Owner rents are not abated because of HQS failures that are the family's responsibility.

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

B. Moves During Abatement

To move with continued assistance during the abatement period, the participant must provide to both CHA and the owner either:

- A signed Mutual Lease Termination if they are in their initial lease term; or

- Written 30-day notice if currently under a month to month lease and must be in Good Standing

C. Abatements & HAP Contract Termination

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit.

The maximum length of time that a HAP Contract will be abated is 3 months (90 calendar days).

In the 2nd month of abatement, CHA will notify the landlord of their HAP abatement and termination of the HAP Contract, with a copy of the letter sent to the family, forewarning them that the HAP Contract may be terminated at the end of the 3rd month.

The CHA will give the family the option of:

1.) Residing in their unit, and give up their voucher at the end of 90 days; or

2.) Be issued a voucher to move to another unit**.**

The CHA may rescind the termination notice if and notifies CHA before the termination date of the HAP contract, if the landlord completes the necessary repairs and the family still resides in the unit.

D. Termination of Voucher [24 CFR 982.404(b)]

If the family fails to correct a violation within the period allowed by CHA (and any extensions), CHA will terminate the family's assistance.

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

10.6 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 CHA 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.

10.8 SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]

If CHA 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 six years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the CHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation 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 environmental investigation report from CHA, 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; 40 CFR 745.227]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and CHA will take action in accordance with Section 8-II.G.

CHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level.

EXHIBIT 10.1: 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 openable 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 within 30 days when identified by CHA
- 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
- Maintain covered housing without deteriorated paint if there is child under six in the family

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by CHA). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities within 30 days.

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 Heath/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.

EXHIBIT 10.2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY STANDARDS

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 regarding the following characteristics.

(1) *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.

(2) *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.

(3) *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.

(4) *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.

(5) *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.

11.0 LEASE AND HAP CONTRACT

11.1 TENANT SCREENING

The CHA 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)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before CHA approval of the tenancy, the CHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The CHA must also inform the owner or manager or his/her rights and obligations under the Violence against Women Act of 2013 (VAWA) [24 CFR 5.2005(a)(2)].

The CHA must provide the owner with the family's current and prior address (as shown in the CHA records) and the name and address (if known to the PHA) of the landlord at the family's current and prior address [24 CFR 982.307(b)(1)].

- The CHA will not offer the owner other information in the CHA's possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].

The CHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

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

11.2. 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 the CHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the CHA

- 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 effective date of the lease will be determined upon CHA approval of the dwelling unit. The lease shall be completed, but not signed by the participant or owner.

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 the CHA 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 the CHA 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].

- 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, by mail, by email, or by fax.
- The family may not submit, and the CHA will not process, more than one (1) RTA at a time.
- When the family submits the RTA, the CHA 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, the PHA will notify the family and the owner of the deficiencies.
    - Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, by email, or by fax. The PHA will not accept missing information over the phone.
- When the family submits the RTA and proposed lease, CHA 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, the CHA 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, by mail, by email, or by fax.
- CHA will not accept corrections by phone.

- Because of the time sensitive nature of the tenancy approval process, the PHA will attempt to communicate with the owner and family by phone, fax, or email. The PHA will use mail when the parties cannot be reached by phone, fax, or email.

- CHA will use mail when the parties cannot be reached by phone, fax, or email**.**

11.3. OWNER PARTICIPATION

The CHA does not formally approve an owner to participate in the HCV program. However, there are several criteria where the CHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the CHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

11.4. ELIGIBLE UNITS

There are several criteria that a dwelling unit must meet 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 the CHA's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units **[**24 CFR 982.352(a)]

The CHA 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; a unit occupied by its owner or by a person with any interest in the unit.

Special Housing Types **[**24 CFR 982 Subpart M]

The CHA may permit families to use a Mainstream Voucher assistance in several special housing types, to meet the needs of a person with disabilities. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, and cooperative housing. allow.

Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of voucher while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;

- Other Section 8 assistance (including other tenant-based assistance);

- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);

- Section 101 rent supplements;

- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- 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]

To be eligible, the dwelling unit must be in decent, safe, and sanitary condition. This determination is made using HUD's Housing Quality Standards) and/or equivalent state or local standards approved by HUD.

Unit Size

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]

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 more than 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 family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

11.5 LEASE AND TENANCY ADDENDUM

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; the CHA 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 for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

- CHA may refer owners to the Attorney Generals' Model Lease upon request.

Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all the required information as listed below:

a) The names of the owner and the tenant:

b) The unit rented (address, apartment number, and any other information needed to identify the contract unit)

c) The term of the lease (initial term and any provisions for renewal)

d) The amount of the monthly rent to owner

e) 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 one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

During the initial term of the lease, the owner may not raise the rent to owner, nor make changes to the utility responsibilities. [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 stated in the dwelling lease if they exist.

Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant that is determined reasonable.

Separate Non-Lease Agreements between Owner and Tenant

Owners may not demand or accept any rent payment from the family more than the rent to the owner as approved by the CHA minus the CHA'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)].

- The CHA 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.

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.

CHA Review of Lease

The CHA will review the dwelling lease for compliance with all applicable requirements.

If the dwelling lease is incomplete or incorrect, the CHA 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, by email, or by fax. The CHA will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the CHA will attempt to communicate with the owner and family by phone, fax, or email. The CHA will use mail when the parties can't be reached by phone, fax, or email.

The CHA will not review the lease to determine if the lease complies with State and local law.

11.6 TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the CHA must promptly notify the family and owner whether the assisted tenancy is approved.

These actions include

a) Ensuring that the unit is eligible;

b) the unit has been inspected by the CHA and meets the Housing Quality Standards (HQS);

c) the lease offered by the owner is approvable and includes the required Tenancy Addendum;

d) the rent to be charged by the owner for the unit must is reasonable;

e) 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)];

f) the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306];

g) 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)].

The CHA 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 the CHA, the CHA 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, by email, or by fax. The CHA will not accept corrections over the phone.

If the CHA 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. The CHA will instruct the owner and family of the steps that are necessary to obtain approval of 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 or rent reasonableness, the CHA 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.

11.7 HOUSING ASSISTANCE PAYMENT CONTRACTS

A. Overview

The HAP contract represents a written agreement between the CHA and the owner of the dwelling unit occupied by a voucher assisted family. The contract spells out the owner's responsibilities under the program, as well as the CHA's obligations. Under the HAP contract, CHA agrees to make housing assistance payments to the owner on behalf of the family approved by the PHA to occupy the unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program.

When the CHA has determined that the unit meets program requirements and the tenancy is approvable, the CHA and owner must execute the HAP contract.

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: the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the PHA representative and owner [HCV Guidebook, pp. 11-10 and 11-11].

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
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA 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 the PHA. 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.

C. HAP Contract Execution [24 CFR 982.305]

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The CHA 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.

The CHA 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, the CHA 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 the CHA may not pay any housing assistance payment to the owner.

The CHA will not execute the HAP contract until the owner has submitted IRS form W-9. The CHA will ensure that the owner receives a copy of the executed HAP contract.

As required under VAWA 2013, once the HAP contract and lease have been executed and the family has been admitted to the program, the CHA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

- Caribou Housing will pay owners subsidy via direct deposit of funds into an owner designated financial account.

D. HAP Contract Payments

General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the CHA 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 and is subject to change during the term of the HAP contract. The CHA must notify the owner and the family in writing of any changes in the HAP payment.

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 the CHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the CHA 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 rent to 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 HA, the excess amount must be returned immediately. If the HA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other voucher 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 the CHA, 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)]

The CHA 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 late penalties if the CHA 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.

The CHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the CHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 CFR 982.311(b)]

CHA 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, the CHA 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.

- The owner must inform CHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.
- The owner must inform CHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide CHA 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, CHA 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 CHA of the date when the family moves from the unit or the family is physically evicted from the unit.

E. 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 regulation 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 CHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

CHA 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 of the HAP contract. The CHA may also obtain additional relief by judicial order or action.

The CHA 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. The CHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

F. 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;

- The CHA terminates the HAP contract;

- The CHA 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 the PHA made the last housing assistance payment to the owner;

- The family is absent from the unit for longer than the maximum period permitted by the CHA;

- The Annual Contributions Contract (ACC) between CHA and HUD expires

- CHA elects to terminate the HAP contract.
- CHA 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];
  - The unit does not meet HQS [24 CFR 982.404];
  - The family breaks up [HUD Form 52641];
  - The owner breaches the HAP contract [24 CFR 982.453(b)]

If CHA terminates the HAP contract, the CHA 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].

- CHA may provide less than a thirty (30) notice, if it is discovered that the family vacated the unit, and the owner failed to inform CHA of the vacancy in a timely manner.
- For deceased tenants, no HAP payments can be paid after the month the tenant passes away. Therefore, if a tenant passes away on Feb 28th, March payment will need to be returned to CHA

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].

G. 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 the CHA.

An owner under a HAP contract must notify the CHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the CHA.

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 the CHA finds acceptable. The new owner must provide the CHA with a copy of the executed agreement.

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.

CHA 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 to change the HAP payee under an outstanding HAP contract.

Within 10 business days of receiving the owner's request, the PHA will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to CHA 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
- A certification that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, CHA 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, CHA will process the leasing in accordance with the policies.

H. Foreclosure [Notice PIH 2010-49]

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

If a property is in foreclosure, CHA will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

CHA will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.

CHA will inform the tenant that they must continue to pay rent in accordance with the lease, and

if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.

In the event that CHA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the new owner, CHA will either use the funds to pay:

- The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, CHA shall notify the owner within a reasonable time after making the utility payment; or

- For the family's reasonable moving costs, including security deposit costs.

CHA will also refer the tenant, as needed, to the local legal aid office to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

11.8 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 the CHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, CHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. 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 proposed changes. A new tenancy must then be approved in accordance with this chapter.

- ❖ Where the owner is changing the amount of the rent to owner, the owner must notify CHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)].

The CHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy 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)].
- CHA will only process only one rent increase in a 12-month period.

12.0 MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

12.1: MOVING WITH CONTINUED ASSISTANCE

A. Allowable Moves

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance.

1) The family has given the owner a written 30-day notice to terminate the lease. [24 CFR 982.354(b)(3)].

    - The family must give the CHA a copy of any family termination notice at the same time [24 CFR 982.354(d)(1)].

2) 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)].

    - The family and the owner must give the CHA a copy of the termination agreement.

3) 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 CHA a copy of any owner eviction notice [24 CFR 982.551(g)].

4) 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 CHA, 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)].

5) The CHA has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].

6) The CHA 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 CHA must issue the family a new voucher, and the family and CHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the CHA 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 CHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

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)].

1.) Denial of Moves

a.) Insufficient Funding [24 CFR 982.354(e)(1); Notice PIH 2016-09]

The CHA will deny a family permission to move on grounds that the CHA does not have sufficient funding for continued assistance if

i. The move is initiated by the family, not the owner or the CHA;

ii. The CHA can demonstrate that the move will, in fact, result in higher subsidy costs

iii. The CHA 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; and

iv. For portability moves, the receiving CHA is not absorbing the voucher.

If the CHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within the CHA's jurisdiction. The CHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both moves within the CHA's jurisdiction and outside under portability, the CHA will not deny a move due to insufficient funding if the CHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The CHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

The CHA will create a list of families whose moves have been denied due to insufficient funding. The CHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The CHA 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.

The CHA 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.

b.) Grounds for Denial or Termination of Assistance [24 CFR 982.354(e)(2)].

If the CHA has grounds for denying or terminating a family's assistance, the CHA will act on those grounds in accordance with the regulations and policies, 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.

2.) Restrictions on Elective Moves [24 CFR 982.354(c); [Notice PIH 2016-09].

A family whose head or spouse has a domicile (legal residence) or works in the jurisdiction of CHA at the time the family first submits its application for participation in the program to the CHA may lease a unit anywhere in the jurisdiction of CHA or outside CHA jurisdiction as long as there is another entity operating a HCV program covering the location of the proposed unit.

If the head or spouse of the assisted family does not have a legal residence or work in the jurisdiction of CHA at the time of its application, the family will not have any right to lease a unit outside of CHA jurisdiction for a 12-month period beginning when the family is first admitted to the program. During this period, the family may only lease a unit located in the jurisdiction of the CHA.

- This does not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, stalking, or sexual assault and the move is needed to protect the health or safety of the family or family member.

The CHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the CHA's jurisdiction or outside it under portability.

The CHA 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 CHA's jurisdiction.

CHA will also deny a family permission to move if they are not a tenant in good standing. CHA defines a tenant is NOT in good standing in the following situations: damages to the unit exceeding or the equivalent of one month's rent, debt to the landlord of 3 or more month's rent or the court determines the participant has committed serious violations of the lease, the family currently owes rent or other amounts to Caribou Housing or another PHA in connection with Section 8 or public housing assistance under the 1937 Act or the family breaches an agreement with CHA to pay amounts owed to CHA, or amounts paid to an owner by CHA.

The CHA 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 CHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities.

C. Moving Process

1.) Notification

Families are required to give proper written notice of their intent to terminate the lease. In accordance with HUD regulations, no notice requirement may exceed 60 days. During the initial term, families may not end the lease unless they and the owner mutually agree to end the lease.

- If the family moves from the unit before the initial term of the lease ends without the owner's CHA's approval, it will be considered a serious lease violation and subject the family to termination from the program

If the family wishes to move to a unit outside the CHA's jurisdiction under portability, the notice to the CHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2)]. The notices must be in writing [24 CFR 982.5].

The family is required to give the CHA a copy of the notice to terminate the lease at the same time as it gives the notice to the landlord.

- Family's failure to provide a copy of the lease termination notice to the CHA will be considered a violation of Family Obligations and may cause the family to be terminated from the program.

If notice has been given and a family fails to find an acceptable unit, assistance continues in the current unit if the owner agrees and the unit meets program requirements.

2.) Approval

Upon receipt of a family's notification that it wishes to move, the CHA will determine whether the move is approvable in accordance with the regulations and policies. The CHA will notify the family in writing of its determination within 10 business days following receipt of the family's notification.

Good standing with Caribou Housing is determined by Caribou Housing reviewing the following:

a) The participant is current on their payments toward any Caribou Housing repayment agreements or accounts receivable debt; and

b) Verifies that the family is not violating any family obligations under the voucher that may result in program termination.

Good standing with the landlord is determined by Caribou Housing contacting the landlord and verifying the participant family:

a) Has not violated the terms and conditions of the lease;

b) Is not delinquent in rental payments to the landlord;

c) Is not delinquent in utility bills which would become the responsibility of the landlord upon participant move-out; and

d) Has not caused damage to the unit above normal wear and tear and beyond what the security deposit would pay.

3.) Reexamination of Family Income and Composition

For families approved to move to a new unit within the CHA's jurisdiction, the CHA will perform a new annual reexamination in accordance with the policies set forth in this plan.

- If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in their current unit with continued assistance, if the owner agrees and CHA agrees. Otherwise, the family will lose their assistance.

For families moving into or families approved to move out of the CHA's jurisdiction under portability, the CHA will follow the policies set forth in this chapter.

4.) Voucher Issuance and Briefing

For families approved to move to a new unit within the CHA's jurisdiction, the CHA will issue a new voucher within 10 business days of the CHA's written approval to move. No briefing is required for these families. The CHA 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 PHA approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the CHA's jurisdiction under portability, the CHA will follow the policies set forth in this chapter.

For current leased families, 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 CHA approves. Otherwise, the family will lose its assistance.

5.) Housing Assistance Payments [24 CFR 982.311(d)]

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.

C. Zero HAP Families Who Wish to Move [24 CFR 982.455]

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The CHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if the PHA determines no subsidy would be paid at the new unit, the CHA may refuse to enter a HAP contract on behalf of the family.

12.2 PORTABILITY

A. General Policies of CHA

A family whose head, spouse, or co-head has a domicile (legal residence) in the jurisdiction of the CHA at the time the family first submits its application for participation in the program to the CHA may lease a unit anywhere in the jurisdiction of the CHA or outside the CHA's jurisdiction as long as there is another entity operating a voucher program covering the location of the proposed unit.

If the head, spouse or co-head of the assisted family does not have a legal residence in the jurisdiction of the CHA at the time of its application, the family does not have any right to lease a unit outside of the CHA jurisdiction for a 12-month period beginning when the family is first admitted to the program. During this period, the family may only lease a unit located in the jurisdiction of the CHA.

Applicants where the head, co-head, or spouse did not have legal domicile in the PHA's jurisdiction at the time the family first submitted their application do not have the right to portability until they have leased a unit in the jurisdiction for 12 months, however, the PHA may choose to allow portability during this period (CFR §982.353(c)(2)). PHAs must keep in mind that persons with disabilities may request a reasonable accommodation to port out before meeting the one-year residency requirement if there is a nexus between the person's disability and their need to move out of the jurisdiction.

- The CHA will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, sexual assault, or stalking.

- CHA may consider exceptions for moves related to employment or education

Families participating in the Voucher Program will not be allowed to move more than once in any 12-month period and under no circumstances will the CHA allow a participant to improperly break a lease. Under extraordinary circumstances the CHA may consider allowing more than one move in a 12-month period.

- Families may only move to a jurisdiction where a Section 8 Program is being administered.

- If a family has moved out of their assisted unit in violation of the lease, the CHA will not issue a voucher, and will terminate assistance

B. Income Eligibility

A family must be income-eligible in the area where the family first leases a unit with assistance in the Voucher Program.

If a portable family is already a participant in the Initial Housing Authority's Voucher Program, income eligibility is not re-determined.

C. Administration by Receiving Housing Authority

When a family utilizes portability to move to an area outside the Initial Housing Authority jurisdiction, another Housing Authority (the Receiving Housing Authority) must administer assistance for the family if that Housing Authority has a tenant-based program covering the area where the unit is located.

A Housing Authority with jurisdiction in the area where the family wants to lease a unit must issue the family a voucher. If there is more than one such housing authority, the Initial Housing Authority may choose which housing authority shall become the Receiving Housing Authority.

D. Portability Procedures

1.) CHA is the Initial Housing Authority

a) The CHA will determine whether the family is income-eligible in the area where the family wants to lease a unit.

b) The CHA will advise the family how to contact and request assistance from the Receiving Housing Authority.

c) The CHA will promptly notify the Receiving Housing Authority to expect the family.

d) The CHA will immediately mail to the Receiving Housing Authority the most recent HUD Form 50058 (Family Report) for the family, and the following documents:

i. Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-09]

ii. A copy of the family's voucher [Notice PIH 2016-09]

iii. A copy of the family's most recent form HUD-50058

iv. 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 2016-09]

v. Social security numbers (SSNs)

vi. Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system

vii. Documentation of legal identity

viii. Documentation of citizenship or eligible immigration status

ix. Documentation of participation in the earned income disallowance (EID) benefit

x. Documentation of participation in a family self-sufficiency (FSS) program

2.) CHA is the Receiving Housing Authority:

a) When the portable family requests assistance from the CHA, the CHA will promptly inform the Initial Housing Authority whether it will bill the Initial Housing Authority for assistance on behalf of the portable family or absorb the family into its own program. When the CHA receives a portable family, the family will be absorbed if funds are available and a voucher will be issued.

b) The CHA will issue a voucher to the family. The term of the CHA's voucher will not expire before the expiration date of any Initial Housing Authority's voucher. The CHA will determine whether to extend the voucher term. The family must submit a request for tenancy approval to the CHA during the term of the BHA's voucher.

c) The CHA will determine the family unit size for the portable family. The family unit size is determined in accordance with the CHA's subsidy standards.

d) The CHA will promptly notify the Initial Housing Authority 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 voucher.

e) If the CHA opts to conduct a new reexamination, the CHA will not delay issuing the family a voucher or otherwise delay approval of a unit unless the re-certification is necessary to determine income eligibility.

f) To provide assistance for portable families, the CHA will perform all Housing Authority program functions, such as reexaminations of family income and composition. At any time, either the Initial Housing Authority or the CHA may make a determination to deny or terminate assistance to the family in accordance with 24 CFR 982.552.

3.). CHA Absorbs

If funding is available under the consolidated ACC for the CHA's Voucher Program when the portable family is received, the CHA may absorb the family into its Voucher

Program. After absorption, the family is assisted with funds available under the consolidated ACC for the CHA's Voucher Program.

4.). Portability Billing

To cover assistance for a portable family, the Receiving Housing Authority may bill the Initial Housing Authority for housing assistance payments and administrative fees. The billing procedure will be as follows:

a-). CHA As the Initial Housing Authority,

i. The CHA will promptly reimburse the Receiving Housing Authority for the full amount of the housing assistance payments made in behalf of the portable family.

ii.. The CHA will promptly reimburse the Receiving Housing Authority for 80% of the Receiving Housing Authority's on-going administrative fee for each unit month that the family receives assistance under the tenant-based programs and is assisted by the Receiving Housing Authority. If both Housing Authorities agree, a different amount of reimbursement may be negotiated.

b.) CHA as The Receiving Housing Authority,

If CHA does not absorb the voucher, CHA must bill the Initial Housing Authority within 60 days of the family lease up -date. Failure to do so will require CHA to absorb the porting family.

5.) 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

6.) When a Portable Family Moves

When a portable family moves out of the tenant-based program of a Receiving Housing Authority that has not absorbed the family, the Receiving HA must send the portability packet back to the Initial Housing Authority.

13.0 REEXAMINATIONS

13.1 ANNUAL REEXAMINATIONS [24 CFR 982.516]

The CHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated.

A. Scheduling Annual Reexaminations [HCV GB p. 12-1].

The CHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the CHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the CHA will perform a new annual reexamination, and the anniversary date will change based on the lease effective date.

Notification of and Participation in the Annual Reexamination Process [Notice PIH 2009-36].

Option 1:

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the CHA to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the CHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the CHA will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without PHA approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

Option 2 -Mail

Annual reexaminations may be conducted by mail. Notification of the annual reexamination will be sent by first-class mail and will inform the family of the

information and documentation that must be provided to the CHA, and the deadline for providing it. Documents will be accepted by mail, by email, by fax, or in-person.

If the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, as well as to any alternate address provided in the family's file.

B. Conducting Annual Reexaminations

As part of the annual reexamination process, families are required to provide updated information to the CHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

Option 1:

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a CHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Option2 - Mail

Families will be asked to supply all required information (as described in the reexamination notice) before the deadline specified in the notice. The required information will include a CHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms related to the family's income, expenses, and family composition.

The CHA will notify the family in writing if any required documentation or information is missing. The missing information or documentation must be provided within 10 business days of the date the PHA notifies the family. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination.

At the annual reexamination, the CHA will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. CHA will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant [Notice PIH 2012-28].

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

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS), the CHA must issue the family a new voucher, and the family and CHA 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 [24 CFR 982.403].

EIV and Fraud

During the reexamination process, Eligibility Specialists will obtain EIV (Upfront Income Verification data at each annual review and identify any unreported or underreported income.

If the reexamination discloses that the participant, at the time of admission or at any previous reexamination, made misrepresentations, the participant will be notified in writing of such misrepresentation. CHA for any overpayments made as a result of misrepresentation or may be processed for termination.

C. Determining Ongoing Eligibility of Certain Students [24 CFR 982.552(b)(5)]

During the annual reexamination process, the CHA will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents or is considered a *vulnerable youth* based, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the CHA will process a reexamination.

13.2 EFFECTIVE DATES [24 CFR 982.516].

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

- If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.
- If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.
- If the CHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the CHA, but will always allow for the 30-day notice period.
- If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

- If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.
- If the CHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.
- If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are caused by the family if the family fails to provide information requested by the CHA by the date specified, and this delay prevents the CHA from completing the reexamination as scheduled.

13.3 INTERIM REEXAMINATIONS [24 CFR 982.516]

Family circumstances may change between annual reexaminations. [HCV GB, p. 12-10].

A. Changes in Family and Household Composition

The family is required to report all changes in family composition. that occur between annual reexaminations. The participant must complete an update form and provide necessary documentation to support the change.

New Family Members Not Requiring PHA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

- The family must inform the CHA of the birth, adoption, or court-awarded custody of a child within 10 business days.

The addition of a new family member should be limited to:

- Birth of a child by a current family member;
- Adoption of a child by a current family member;
- Court-awarded custody of a child to a current family member;
- Legal guardianship of a minor granted to a current family member;
- As result of marriage by a current family member;
- As a result of a reasonable accommodation for a current disabled family member;
- As a result of a returning family member from active military service;
- As a result of a returning and now disabled family member;
- As a result of a returning child, including adult children (including spouse and/or children of the returning child);
- As a result of returning or placement of a parent to an existing minor in the family;
- As a result of returning or placement of elderly or disabled parents or grandparents to be cared by current family members; or
- As a result of returning or placement of a foster child(ren) or foster adult (s) if their presence would not result in a violation of HQS space standards according to 24 CFR 982,401.

CHA will not approve requests for additions to family composition where the request intends to provide housing assistance to extended families or multiple households. Information will be provided to the participant regarding other housing alternatives for the second household.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

Families must request CHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or 30 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the CHA prior to the individual moving into the unit.

All requests to add household members must be in writing and approved by CHA and the owner of the dwelling unit.

For a Live-in Aide provide documentation from a physician to indicate the need for a live-in aide is required. The live-in aide's presence must be determined essential for the care and wellbeing of the elderly or disabled family member and the live-in aide would not be living in the unit except to provide the necessary care.

- Relatives or family members may qualify as live-in aides; however, a pre-existing household member does not qualify as a live-in aide.

CHA will not approve the addition of a new family or household member unless the individual meets the CHA's eligibility criteria and documentation requirements.

CHA will notify the family in writing of the approval or denial of the additional family or household member within 10 business days of receiving all information required to verify the individual's eligibility. If CHA denies approval, the reasons for the denial will be provide in the written notice

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards, the CHA must issue the family a new voucher, and the family and CHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the CHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

Departure of a Family or Household Member

Families must promptly notify the PHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the CHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

Program participants must report to CHA in writing within 10 business days, any members absent from the household for a period more than 30 consecutive days. This includes any household member, live-in aides, foster child, foster adult who ceases to reside in the unit.

In such cases, documentation of the removal of the family member may include one of the following:

- A new lease showing a new address for the removed family member.

- Any documentation (such a bill, agency, employment records, school, etc.) showing a new address for the removed family member.
- Written and signed noticed by the head of household explaining the reason for the removal.

- If the change in family size requires a decrease in payment standard, this will occur at the next scheduled re-examination.

B. Changes Affecting Income or Expenses

Interim reexaminations can be scheduled either because the CHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the CHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

CHA-Initiated Interim Reexaminations

CHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the CHA. They are not scheduled because of changes reported by the family.

The CHA will conduct interim reexaminations in each of the following instances:

1) For families receiving the Earned Income Disallowance (EID), the CHA will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.

2) If the family has reported zero income, the CHA will conduct an interim reexamination every 3 months if the family continues to report that they have no income.

    - During the appointment, the family's income and expenses will be reviewed. The family will be supplied with information on how to secure income. If the family still claims 0 (zero) income, they will be required to fill out a 0 (zero) income form and provide information on how they pay for expenses. If it is determined that the family had income and failed to report it, the interim increase would be made effective immediately, the family would be processed for fraud and required to pay back any over-paid subsidies and their assistance may be processed for termination.

3) If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the CHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

4) If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the CHA will conduct an interim reexamination.

5) The CHA may conduct an interim reexamination at any time to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

CHA may conduct an interim reexamination at any time to assist a participant in the Family Self-Sufficiency program.

CHA may conduct an interim reexamination at any time to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations [24 CFR 982.516(c);24 CFR 982.516(b)(2)].

Required Reporting

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect. The CHA will conduct an interim reexamination to recalculate the new family share and new subsidy amount.

1) If the family is on zero income, the family must report any changes in income, regardless of the amount.

2) Families are required to report new earned income and new sources of unearned income within 10 business days from the date of occurrence.

3) All changes in family composition must be reported in writing within 10 business days from the date of occurrence.

4) If the family is reporting a decrease in income, they must also report any increases in income, which have occurred.

Not Required to Report

The family is not required to report the following until the next annual re-examination.

- Cost of living adjustments to recipients of Social Security, TANF and Veteran Assistance or increased amounts of other unearned income.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. CHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615].

C. Processing Interim Reexamination

Method of Reporting

The participant must complete an update form and provide necessary information to support the change. The participant must submit any required information or documents within 10 business days of receiving a request from CHA. This timeframe may be extended for good cause with CHA approval. CHA will accept required documentation by mail, email, fax or in person.

When all necessary verification is complete, the housing eligibility specialist will complete a Rent Change Notice reflecting the change in rent portions and the effective date. A notice will be sent to the family and owner. Generally, the family will not be required to attend an interview for an interim reexamination. However, if CHA determines that an interview is warranted, the family may be required to attend.

Effective Dates

The CHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

If the family share of the rent is to increase:

- When the change is reported in a timely manner (within 10 business days from the effective date of the income increase), the family will be given a 30-day notice prior to the first of the month for any increase in tenant rent.
- Cost of living adjustments to recipients of Social Security or SSI, Welfare and Veterans Assistance or increased amounts of other current unearned income will be calculated at the next annual re-examination.
- Increases in assets will be calculated at the next re-examination.
- Interim increases will be processed as a result of new earned income or new unearned income.
- Interim increases, regardless of the amount, will be processed when current household income is zero.

In the event an increase in income was not reported in a timely manner, CHA may:

- Retroactively establish the correct Housing Assistance Payment and require the tenant to repay any amounts owed to CHA for the period they earned higher income but did not report;
- Terminate the participant from the program for willful intent to commit fraud; or

- Report the violation to the HUD Office of Inspector General and or local authorities for prosecution.

The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies.

If the family share of the rent is to decrease:

Changes will be made only after the tenant reports the change in writing by completing an update form and providing proper information or documentation. If the tenant reports the change in writing with proper documentation, the change will be effective the first of the following month. If staff is unable to process the change by the first of the month, retroactive rent will be paid back to the appropriate effective date.

If the family causes a delay in processing the interim by not providing the requested documentation, decreases in the family share of the rent will be applied the first of the month after the documents have been provided. The family's tenant file will be documented to reflect how the family caused the delay in processing.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615].

13.4 RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

A. Changes in Payment Standards and Utility Allowances

To calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the CHA's calculations.

Payment Standards **[**24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5].

When the CHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
    - If the payment standard amount has i*ncreased,* the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
    - If the payment standard amount has *decreased*, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP

contract remains in effect. At the family's *second annual* reexamination, the PHA may, but is not required to, apply the decreased payment standard, or may gradually implement the reduced payment standard.

- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards, the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

Utility Allowances **[24 CFR 982.517(d)]**

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the CHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the CHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the CHA current utility allowance schedule [HCV GB, p. 18-8].

B. Notification of New Family Share and HAP Amount

The CHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new tenant rent to owner

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.

C. Discrepancies

During an annual or interim reexamination, the CHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the CHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made.

If the EIV report reveals an income source that was not reported by the participant or a substantial difference (defined as $2400 or more annually) in the reported income information, CHA will:

1) Discuss the income discrepancy with the participant; and

2) Request the participant to provide any documentation to confirm or dispute the unreported or underreported income and/ or income sources; and

3) In the event the participant is unable to provide acceptable documentation to resolve the income discrepancy, the CHA will request from the third-party source, any information necessary to resolve the income discrepancy; and

4) If applicable, determine the participant's underpayment of rent as a result of unreported or underreported income, retroactively; and

5) Take any other appropriate action.

The participant will be provided an opportunity to contest CHA's determination of overpayment of the HAP. Participants will be promptly notified in writing of any adverse findings made based on the information verified through the income discrepancy resolution process. The participant may contest the findings in accordance with established grievance procedures. CHA will not terminate, deny, suspend, or reduce the family's assistance until the expiration of any notice or grievance period.

When there is an unsubstantial or no disparity between participant-reported and EIV-reported income information, CHA will obtain from the participant, any necessary documentation to complete the income determination process. As noted previously, the CHA may reject any participant-provided documentation, if the Agency deems the documentation unacceptable. Documentation provided by the participant will only be rejected for only the following reasons:

1) The document is not an original; or

2) The original document has been altered, mutilated, or is not legible; or

3) The document appears to be a forged document (i.e. does not appear to be authentic).

CHA will explain to the participant, the reason(s) the submitted documents are not acceptable and request the participant to provide additional documentation. If at any time, the participant is unable to provide acceptable documentation that CHA deems necessary to complete the income determination process, the Authority will submit a traditional third-party verification form to the third-party source for completion and submission to CHA.

D. Temporary Compliance Assistance

In PIH Notice 2013-03, HUD granted the CHA some temporary, needed administrative burden relief. BHA is hereby adopting the allowable relief activities.

1) CHA will calculate a participant's rent based on his or her actual income over the past twelve months instead of trying to project the income for the next twelve months. The CHA will use the most recent twelve-month period available in EIV for recertifications. Since the data in EIV has already been verified by a third party, CHA will not re-verify EIV data.

    a) If there has been a change in circumstances for a participant, if EIV is not current enough, or the participant disputes the EIV reported income and is unable to provide acceptable documentation to resolve the dispute, the CHA will request written third-party verification and go by the regular verification process.

    b) CHA will continue to verify income as normal from sources not available in EIV using the same period of time as used for the EIV-supplied data.

2) If a participant has assets valued at $5000 or less, the participant can self-certify to the amount of their assets and the income these assets are anticipated to generate. Every three years the assets must be verified regardless of the amount. CHA will not verify this data, but merely include it in the income calculation. The application and reexamination documentation can serve as this declaration if it is signed by all adult family members. If the assets total more than $5000, verifications will be made as usual.

3) CHA will utilize the authority granted by the Notice to approve payment standards of up to 120% of FMR without prior HUD approval, if needed, as a reasonable accommodation for a family including a person with a disability. CHA will maintain documentation that the rent reasonableness analysis has been completed and that the unit has the feature(s) needed to meet the needs of the person with disabilities.

14.0 OWNER OR FAMILY DEBTS TO THE CHA

[24 CFR 982.54]

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

CHA will enter into repayment agreements in accordance with the policies contained in this part to recover overpayments.

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

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program
- Or other means as determined appropriate by CHA and Maine state law.

14-1 REPAYMENT POLICY

A. Owner Debts to the PHA

Any amount due to CHA by an owner must be repaid by the owner within 30 days of CHA determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, CHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments CHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by CHA.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, CHA will ban the owner from future participation in the program and pursue other modes of collection.

If CHA decides to allow the owner to participate in the program in the future, outstanding debts will be collected from future HAP payments.

B. Family Debts to CHA

Any amount owed to CHA by a family must be repaid by the family. If the family is unable to repay the debt within 30 days, CHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, CHA will terminate assistance in accordance with the policies, and may pursue other modes of collection.

C. Repayment Agreement [24 CFR 792.103]

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

Down Payment Requirement

Before executing a repayment agreement with a family, CHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to CHA that a down payment of 10 percent would impose an undue hardship, CHA may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2017-12 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2017-12 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

CHA has established the following thresholds for repayment of debts:

- Amounts greater than $101 must be repaid in full or in $50 monthly installments.
- Debts $100 and under will not be permitted a repayment agreement and must be paid in full within 60 days of notification.

If a family can provide evidence satisfactory to CHA that the threshold applicable to the family's debt would impose an undue hardship, CHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, CHA will consider all relevant information, including the following:

- The amount owed by the family to CHA
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control
- The family's current and potential income and expenses

- The family's current family share, as calculated under 24 CFR 982.515
- The family's history of meeting its financial responsibilities

Execution of the Agreement

Any repayment agreement between CHA and a family must be signed and dated by CHA and by the head of household and spouse/cohead/other adults (if applicable).

Due Dates

All payments are due by the close of business on the 10th day of the month. If the 10th does not fall on a business day, the due date is the close of business on the first business day after the 10th**.**

Late or Missed Payments

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by CHA, CHA will send the family a delinquency notice giving the family 10 business days to make the late payment.

If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and CHA will terminate assistance in accordance with the policies.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and CHA will terminate assistance in accordance with the policies.

Non-Payment

If the family fails to make any payment as required by the terms set forth within the repayment agreement, CHA retains the right to demand immediate payment of the remaining unpaid balance. If the family fails to make payment of the full balance, it will be considered a breach of the agreement and CHA will terminate tenancy in accordance with the policies.

No Offer of Repayment Agreement

CHA will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2017-12 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance

15.0 GROUNDS FOR TERMINATION OF ASSISTANCE BY CHA

15.1 GROUNDS FOR TERMINATION OF ASSISTANCE

A. Family No Longer Requires Assistance [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the CHA is reduced to zero, the family's assistance automatically terminates 180 days after the last HAP payment.

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 CHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

B. Family Chooses to Terminate Assistance

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

- The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable.

When a program participant self-terminates, CHAs policies for informal' s are not applicable. Participants are only eligible to request an informal to dispute an action taken by the CHA.

C. Mandatory Termination of Assistance

HUD requires the PHA to terminate assistance in the following circumstances.

Eviction *[*24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]

The CHA 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 domestic violence, dating violence, sexual assault, 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.

- A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether 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. In such cases the CHA 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 alternative measures. In making its decision, the CHA will consider the factors. Upon consideration of such factors, CHA 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 criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The CHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The CHA 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 the PHA, 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 Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the CHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the CHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the CHA determined the family to be noncompliant.

- The CHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances 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 there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The CHA 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.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should a CHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the CHA must immediately terminate assistance for the household member.

In this situation, the CHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the CHA must terminate assistance for the household.

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, the PHA must the 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 PHA 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.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

CHA must immediately terminate program assistance for deceased single member households.

- Per the HAP Contract, the termination effective date must be the last day of the month in which the death occurred, which may be retroactive.

15.2 MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

A. Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

CHA will terminate assistance if the CHA 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

CHA 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.

CHA 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.

- *Currently engaged in* is defined as any use of illegal drugs during the previous *twelve (12) months.*

CHA 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.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

- CHA may on a case-by-case, choose not to terminate.

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.

CHA 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.

CHA 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.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

- CHA may on a case-by-case, choose not to terminate.

B. Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c)]

The CHA will terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program.

The family must:

- Supply any information the CHA or HUD determines to be necessary including evidence of citizenship or eligible immigration status.
    - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. (See 24 CFR 982.552(b)(4) and 24 CFR 5.514(c).)
- Supply any information the CHA or HUD determine to be necessary for use in administering the program, including conducting a regularly scheduled re-examination or interim re-examination of family income and composition.
    - See 24 CFR 982.551(b)(1)-(2).
- Disclose and verify social security numbers.
    - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 5.218(c).
- Sign and submit consent forms for obtaining information.
    - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.552(b)(3).
- Allow the CHA and/or owner to inspect the dwelling unit at reasonable times and after reasonable notice.

- Allow the owner/landlord access to the unit to make repairs. See 24 CFR 981.551(d).

- Commit any serious or repeated violation of the lease,
  - Even if the violation does not lead to eviction.
  - CHA 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, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.
  - *Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- Notify the CHA and the before moving out of the unit or terminating the lease.
  - The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the CHA at the same time the owner is notified.
  - The family must provide a written notice to CHA that is signed by the landlord, stating that the family is leaving in good terms.
  - If the family is found to owe the landlord rent (current or back), the rent must be paid in full before CHA will issue the family a voucher to move.

- Promptly give the CHA a copy of any owner eviction notice
  - Within 10 days

- Use the assisted unit for residence only by the family that is listed on the HAP contract and the lease. The unit must be the family's only residence.

- Receive CHA approval for the family residing in the unit.
  - Notify the CHA in writing the birth, adoption, or court awarded custody of a child, within 10 days
  - Request CHA's written approval to add any other family member as an occupant of the unit, within 10 days
  - CHA will also require written documentation of landlord approval to add the additional household member(s) to the lease

- Promptly notify the CHA in writing if any family member no longer lives in the unit.
    - Within 10 days
- Request and obtain CHA approval before adding a live-in aide or foster child/adult to the household
- Supply any information requested by the CHA to verify that the family is living the unit or information related to family absence from the unit.
- Promptly notify the CHA when the family is absent from the unit for an extended period of time.
    - Within 10 days
    - An extended period is defined as any period greater than 30 calendar days *in any 45-day period*. Written notice must be provided to the PHA at the start of the extended absence *unless disability or medical circumstances would prevent that from happening.*
- Maintain the unit in accordance with Housing Quality Standards
    - Pay utility bill and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher]
- Report all changes in annual income if the family has zero income prior to the change.
    - Within 10 days.
- Follow the CHA's policy regarding guests. A guest is defined as a person temporarily staying in the unit with the consent of the head of household or another adult member. See 24 CFR 5.100. A guest may visit a family in an assisted unit for a total of 30 calendar days in a calendar year; however, each visit cannot exceed 14 consecutive calendar days. A visit is defined as an overnight stay.

  Participants may request a time extension to this visitor timeframe. Persons that exceed the time as a guest will be considered an unauthorized occupant and the family will be subject to program termination. Verification of an unauthorized occupancy can be established through the following:

  (1) Statements from landlord;

  (2) Statement from neighbors;

  (3) Government issued ID's or reports;

  (4) Police reports;

  (5) Post Office report;

  (6) Other documentation or investigations.

- Attend informational briefings and required appointments including but not limited to those scheduled to discuss violations of family obligations and allegations of criminal activity in the family's unit, building or local area.

- Continue to meet ongoing eligibility requirements in the case of students. 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 and is not residing with his/her parents in an HCV assisted household, the CHA will terminate the student's assistance if, at the time of re-examination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit. The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.552(b)(5).

The family (including each family member) must not:

- Own or have any interest in the unit (other than in a cooperative or in the case of a voucher holder participating in the homeownership program).

- Commit any serious or repeated violation of the lease.

  - CHA 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, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

  - Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

- Engage in any drug-related criminal activity

  - Or allow guest to engage in any drug related criminal activity

  - 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 [24 CFR 5.100]. Drug means a controlled substance as defined in Section 802 of the Controlled Substances Act [21 USC 802] or any other illegal drug.

  - The CHA may terminate assistance for drug-related criminal activity by a household member if the CHA determines that the household member has engaged in the activity within the last five years.

- Engage in any violent criminal activity

  - Or allow guest to engage in any violent criminal activity

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

- Engage in any other criminal activity

  - Or allow guest to engage, in any other criminal activity

  - 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. Immediate vicinity means within a one-mile radius of the premises. See 24 CFR 5.100.

  - The CHA may terminate assistance for criminal activity by a household member or guest if the CHA determines that the household member has engaged in the activity within the last five years.

- Sublease or let the unit or assign the lease or transfer the unit

  - Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- Receive Housing Choice Voucher program housing assistance while receiving another housing subsidy for the same unit or a different unit under any other federal, state, or local housing assistance program. See 24 CFR 982.551(n).

- Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises

  - The family is responsible for any damages to the unit or premises that are damaged by any guest/visitor/unauthorized person.

  - Damages beyond normal wear and tear will be damages which could be assessed against the security deposit *as* determined by Maine State law.

  - If the family is found to owe the landlord money for damages (current or back), the amount must be paid in full (no more than 30-days), or termination may start on the voucher.

- Receive Housing Choice Voucher program housing assistance while residing in a unit owned by a spouse, domestic partner, parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the CHA 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.

- 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 and/or community.

- Be evicted due to serious violation of the lease.
  - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.552(b)(2).
  - The family is responsible for any serious or repeated violation of the lease that is caused by any guest/visitor/unauthorized person.
  - CHA considers a family evicted if the landlord files an eviction action and the court enter an order of possession, even if:

    (1) a money judgment is not entered concurrently with the order of possession, or

    (2) the family moves out of the subsidized unit before the order of possession is entered or physically enforced.
  - CHA may consider a family to be evicted if the order of possession is an agreed order. The CHA will not consider a family to be evicted, however, if the order of possession is entered concurrently with a written settlement agreement pursuant to which the family repays all unpaid back rent and rent when due while they remain in possession of the subsidized unit.

- Threaten or engage in abusive or violent behavior or criminal activity toward CHA personnel or its representatives. See 24 CFR 982.552(c)(1)(ix) and 24 CFR 5.100. CHA personnel include CHA employees or CHA contractors, subcontractors, or agents.
  - Or allow guest to threaten or engage in behavior
  - Abusive or violent behavior towards CHA personnel or agents and contractors 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.

- Engage in behavior that disturbs or threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.
  - Or allow guest to engage in behavior

- Fail to attend two consecutive, scheduled re-examination appointments without CHA approval.

- Be subject to a lifetime requirement to register as a sex offender in any state or territory of the United States.

- Have committed or be convicted of a drug-related crime for the manufacture or production of methamphetamine on the premises of federally assisted housing. The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.553(b)(1)(ii).

- Have had any public housing authority (PHA) previously terminate assistance under any federally assisted housing program within the last three years. See 24 CFR 982.552(c)(1)(iii). This policy excludes voluntary terminations.

- Currently owe rent or other amounts to any PHA in connection with the HCV (including PRA and RAD), Moderate Rehabilitation or public housing programs, unless the family currently has a repayment agreement and is complying with its terms. See 24 CFR 982.552(c)(1)(v). This includes, but is not limited to:

    - Failure to reimburse a PHA for amounts the PHA paid to an owner for amounts owed by the family under the lease.

    - Breaching the terms of a repayment agreement entered into with the CHA. See 24 CFR 982.552(c)(1)(vii). See Chapter 14-Program Integrity for further discussion on repayment agreements.

    - Any repayment agreement within the past six years.

Insufficient Funding [24 CFR 982.454]

In the event that the CHA decides to stop issuing vouchers as a result of a funding shortfall, and the CHA is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when the CHA resumes issuing vouchers, the CHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

Prior to terminating any HAP contracts, the CHA will inform the local HUD field office. The CHA will terminate the minimum number needed to reduce HAP costs to a level within the CHA's annual budget authority.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the CHA will terminate HAP contracts as a last resort.

These families' Voucher's will be suspended, until funds become available. After funds have become available, the families will be notified in writing that they may continue their search for housing. If a period of 60 days has elapsed, each family will need to be recertified to determine if they're still eligible for the program as described in the admissions screening criteria.

If the CHA must terminate HAP contracts due to insufficient funding, the CHA will do so in accordance with the following criteria and instructions:

Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.

15.3 APPROACH TO TERMINATION OF ASSISTANCE

A. Method of Termination [24 CFR 982.552(a)(3)]

Termination of assistance for a participant may include any or all the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

B. Alternatives to Termination of Assistance

Change in Household Composition

As a condition of continued assistance, the CHA 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)].

CHA will consider requiring the tenant to exclude a household member 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.

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 CHA request.

If the culpable family member is the head of household, the spouse, co-head or other remaining adult family member may provide the certification.

Repayment of Family Debts

If a family owes amounts to the CHA, as a condition of continued assistance, the CHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the CHA of the amount owed.

C. Criteria for Deciding to Terminate Assistance

Evidence [24 CFR 982.553(c)].

The CHA 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

Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs a PHA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes PHA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a PHA's use of records to terminate assistance for participants. While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars a PHA from using non-federal sources to conduct criminal background checks of program participants.

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

The CHA will consider the following facts and circumstances when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault or stalking
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant engaged in disqualifying criminal activity. As part of its investigation, the CHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The CHA may also consider:

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

Whether criminal charges were filed

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

Any other evidence relevant to determining whether the participant engaged in disqualifying activity

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

- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
- The CHA 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 a false certification was signed by the family
- The effect on the community of termination or failure to terminate
- The effect on the integrity of the program [24 CFR 5.852]

Consideration of Rehabilitation

In determining whether to terminate assistance for illegal drug use or a pattern of illegal drug use or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, CHA will 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.

For this purpose, CHA will 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

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

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

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the CHA will determine whether the behavior is related to the disability.

If so, upon the family's request, the CHA will determine whether alternative measures are appropriate as a reasonable accommodation.

CHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

15.4 TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault, or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred 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 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 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

To demonstrate an actual and imminent threat, the CHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize an HA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the CHA 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, sexual assault, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within an immediate time frame
- 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 or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the CHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the CHA will request that the individual provide documentation supporting the claim in accordance with the policies of this plan.

CHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the CHA will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA 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" [24 CFR 5.2009(a)]. 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 the PHA 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. This means that the PHA 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].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

The CHA will terminate assistance to a family member if the CHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, the CHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the CHA by the victim in accordance with this section. The CHA will also consider the factors in section 12-II.D. Upon such consideration, the CHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the CHA 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**.**

15.5. TERMINATION NOTICE

Termination by Family, Voluntarily

If a family's assistance is to be voluntarily ended, CHA will mail the family and the owner, a Final Termination Notice, indicating that the termination is per the family's request.

Termination by CHA, Involuntarily

If a family is to be ended involuntarily, the CHA must give the family and the owner a written Intent to Terminate (ITT) notice that specifies the reasons for which assistance has been terminated and the family's right to an informal hearing.

1) CHA will also send the VAWA forms HUD-5382 and HUD-5380 to the family with the termination notice.

2) The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

    - The CHA will request in writing that a family member wishing to claim protection under VAWA notify the CHA within 14 business days.

3) If a criminal record is the basis of a family's termination, the CHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].

4) If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed

If a family does request an informal hearing, the result of the hearing will determine whether a notice of termination is issued. If a notice of termination is issued, it will indicate the effective date of the termination.

When the CHA notifies an owner that a family's assistance will be terminated, the CHA will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

16.0 COMPLAINTS, INFORMAL REVIEWS AND INFORMAL HEARINGS

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA 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)].

16.1. COMPLAINTS

The CHA will investigate and respond to complaints by participant families, owners, and the vernal public CHA may require that complaints other than HQS violations be put in writing.

16.2. APPLICANT/TENANT CONFERENCE

CHA may, at their discretion, hold a tenant conference with an applicant/participant

- To gather more information prior to making a decision on whether to deny or terminate; or
- To discuss the situation prior to scheduling an informal review/hearing.

16.3 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* 60, no. 127 (3 July 1995): 34690].

A. Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]

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 the following [24 CFR 982.552(a)(2)]:

- Denying listing on the 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 CHA
- General policy issues or class grievances
- Removing (or "purging") applicants from the waiting list for failure to respond to CHA communication
- A determination of the family unit size under CPHA subsidy standards
- CHA determination not to approve an extension of a voucher term
- CHA determination not to grant approval of the tenancy
- CHA determination that the unit is not in compliance with the HQS
- CHA determination that the unit is not in accordance with the HQS due to family size or composition

B. Notice to the Applicant [24 CFR 982.554(a)]

The CHA must give an applicant prompt notice of a decision denying assistance.

The notice will contain a brief statement of the reason(s) for the CHA decision. The notice will state that the applicant may request an informal review within 10 business day so the denial and will describe how to obtain the informal review.

C. Scheduling an Informal Review

A request for an informal review must be made in writing and delivered to the PHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the CHA's denial of assistance.

CHA must schedule and send written notice of the informal review within 15 business days of the family's request.

If the informal review will be conducted remotely, at the time the PHA notifies the family of the informal review, the family will be informed:

- Regarding the processes to conduct a remote informal review;
- That, if needed, the CHA will provide technical assistance prior to and during the informal review; and
- That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review,

the family may inform the CHA and the CHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

D. Informal Review Procedures [24 CFR 982.554(b)]

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

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

The Hearing Officer will render a decision on whether assistance should be granted or denied.

Recording of the Hearing

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

E. Remote Informal Reviews

There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If CHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

- CHA has the sole discretion to require that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

- In addition, CHA may conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. CHA will consider other reasonable requests for a remote informal review on a case-by-case basis.

Conducting Remote Informal Reviews

The CHA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the CHA. The CHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, CHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

The CHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal reviews must be conducted in accordance with due process

requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

- The CHA will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

- At least five business days prior to scheduling the remote review, CHA will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the CHA of any known barriers. CHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

- If the informal review is to be conducted remotely, the CHA will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. CHA will scan and email copies of these documents to the CHA representative the same day.

- Documents will be shared electronically whenever possible.

- The CHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

- CHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and

independence of the individual. CHA may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

CHA is required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, the CHA may not hold against the individual his or her inability to participate in the remote informal review, and the CHA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation.

G. Informal Review Decision [24 CFR 982.554(b)]

CHA will notify the applicant of CHA's final decision, including a brief statement of the reasons for the final decision.

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

- Whether or not the grounds for denial were stated factually in the notice to the family.
- The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. CHA 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, CHA will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, the CHA may uphold the decision to deny assistance.

The CHA 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,

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.

H. Reasonable Accommodation for Persons with Disabilities [24 CFR 966.7]

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and CHA must consider such accommodations. CHA must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability.

16.4 INFORMAL HEARING [24 CFR 982.555]

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 CHA policies.

The CHA 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 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

A. 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 CHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under CHA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]
- A determination based on information, investigation, background checks and/or arrests or convictions to terminate assistance based on an unfavorable history

Circumstances for which the CHA will not give a participant an opportunity for informal hearing are as follows:

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

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If CHA chooses to conduct remote informal hearing, applicants may still request an in-person informal hearings, as applicable.

- CHA has the sole discretion to require that informal hearing be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.
- In addition, CHA may conduct an informal hearing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk. CHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Conducting Remote Informal Hearings

The CHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the CHA. The CHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, CHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The CHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal hearings must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

- The CHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

- At least five business days prior to scheduling the remote review, CHA will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the CHA of any known barriers. CHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

- If the informal hearing is to be conducted remotely, the CHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled review through the mail, via email, or text. CHA will scan and email copies of these documents to the CHA representative the same day.

- Documents will be shared electronically whenever possible.

- The CHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal hearing to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

- CHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio

description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. CHA may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

CHA is required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal hearing process.

If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the CHA may not hold against the individual his or her inability to participate in the remote informal hearing, and the CHA should consider whether postponing the remote informal hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation.

B. Informal Hearing Procedures

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

When CHA makes a decision that is subject to informal hearing procedures, CHA must inform the family of its right to an informal hearing while 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 CHA 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, the notice to the family will include all the following:

- The proposed action or decision of the CHA.
- 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 CHA'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 CHA's hearing procedures.

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

A request for an informal hearing must be made in writing and delivered to CHA either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the CHA's decision or notice to terminate assistance.

CHA must schedule and send written notice of the informal hearing to the family within 15 business days of the family's request.

Once the family requests a hearing, they will be sent a hearing notice with the following information:

- An explanation of CHA's hearing procedures.
- The date, time, and location of the hearing

The family must confirm their availability for the scheduled date of the hearing either by phone or in writing within 3 business days of the date of CHA's hearing notice.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

- Regarding the processes involved in a remote informal hearing;
- That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and
- That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

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, CHA may request documentation of the "good cause" prior to rescheduling the hearing.

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

Participants Rights

Participants and the CHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any CHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense.

CHA will provide the family with any exhibit documentation to be presented free of charge no later than 3 business days prior to the scheduled hearing. If the family wishes to obtain copies of additional documentation, they will be allowed to copy any documents related to the hearing at a cost of $.25 per page.

If the hearing will be conducted remotely, the CHA will compile a hearing packet, consisting of all documents CHA intends to produce at the informal hearing. CHA will mail copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of CHA representative and retained by CHA.

Documents will be shared electronically whenever possible.

If the CHA does not make the document available for examination on request of the family, the CHA may not rely on the document at the hearing.

For informal hearings, *documents* include records and regulations.

CHA Rights

CHA must be given an opportunity to examine any family documents that are directly relevant to the hearing. Whenever a participant requests an informal hearing, CHA will automatically mail a letter to the participant requesting a copy of any family documents that the participant wishes to present or utilize at the hearing. The participant must make the documents available no later than 3 business days prior to the scheduled hearing date. The participant can satisfy this requirement by providing the documents via mail or in electronic form within the time constraints outlined above to allow CHA the opportunity to prepare for the hearing. Failure to comply with this obligation may result in the hearing officer not allowing the documents into evidence.

If the informal hearing is to be conducted remotely, CHA will require the family to provide any documents directly relevant to the informal hearing no later than 3 business days before the scheduled hearing. The CHA will scan and email copies of these documents to the hearing officer and the CHA representative the same day.

Documents will be shared electronically whenever possible.

If the family doesn't make the documents available for examination on request of the CHA, the family may not rely on the document 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)]

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

Attendance at the Informal Hearing

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

- A CHA representative(s) and any witnesses for CHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by CHA 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)].

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.

Recording of the Hearing

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

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

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

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

1. Oral evidence: the testimony of witnesses

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

3. 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.

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

The CHA will use the concept of the preponderance of the evidence as the standard for making all informal hearing 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.

Evidence may be included without regard to the rules of evidence applicable to judicial proceedings. Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to relying in the conduct of serious affairs.

If either CHA 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, briefly stating 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.

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

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

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

- **CHA evidence to support the CHA decision**: The hearing officer will evaluate the facts to determine if they support the CHA's conclusion;

- **Consideration of circumstances:** The Hearing Officer may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure. Also, whether such

household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

- If the family includes a person with disabilities, the Hearing Officer's decision will be subject to consideration of the reasonable accommodation requests made by the head of household or their representative. The Hearing Officer's decision will also be consistent with fair housing and equal opportunity provisions of Fair Housing Act, and with the requirements regarding protection for victims of domestic violence, dating violence, or stalking.

- **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 the CHA policies; and

- **Conduct at Hearings:** The hearing officer has discretion to take into account any disruptive behavior that the participant partakes in during the hearing, if applicable.

- The hearing officer will issue a written decision to the family and the CHA 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 PHA representative; and

        Name of family representative (if any).

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

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

- **Findings of Fact**: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

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

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

Issuance of Decision **[24 CFR 982.555(e)(6)]**

A copy of the hearing must be furnished promptly to the family.

The hearing officer will mail a "Notice of Hearing Decision" to CHA and to the participant withing 10 business days of the Hearing. This notice will be sent by first-class mail. The participant will be mailed the original "Notice of Hearing Decision" and a copy of the proof of mailing. A copy of the "Notice of Hearing Decision" will be maintained in the CHA's file.

Effect of Final Decision **[24 CFR 982.555(f)]**

CHA will mail a "Notice of Final Decision" including the hearing officer's recommendation, to the participant and their representative no later than 10 business days from the date of the hearing officer's recommendation. A copy of the "Notice of Final Decision" along with the original proof of mailing will be maintained in CHA's file.

The CHA 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.

The Executive Director has the authority to determine if the CHA is not bound by the decision of the hearing officer because:

- CHA was not required to provide a hearing,
- the decision exceeded the authority of the hearing officer,
- the decision conflicted with or contradicted HUD regulations, requirements, or
- the decision was otherwise contrary to federal, state, or local laws.

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

Procedures for Rehearing or Further Hearing

The hearing officer may ask the family for additional information and/or might adjourn the hearing to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the hearing officer, the action of CHA will take effect and another hearing will not be granted.

Failure to Appear

If the family does not appear at the scheduled time of the hearing, the Hearing Officer will wait up to 10 minutes. If the family appears within 10 minutes of the scheduled time, the hearing will be held. If the family doesn't arrive within 10 minutes of the scheduled time, they will be considered to have failed to appear.

If the family fails to appear and was unable to reschedule the hearing in advance, the family must contact CHA within 24 hours of the scheduled hearing date, excluding weekends and holiday. The Hearing Officer will reschedule the hearing only if the family can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

- If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the CHA's decision will stand.

Good cause is defined as an unavoidable conflict that seriously affects the health, safety, or welfare of the family.

16.5 HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]

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

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

A decision against a family member, issued in accordance with the USCIS appeal process or the CHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

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

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria, and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 CFR 5.514(e)]

When the CHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification.

- CHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the CHA with a copy of the written request for appeal and the proof of mailing.

- The family must provide CHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

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

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

- CHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

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

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

Informal Hearing Officer

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

Evidence

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

The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of CHA documents no later than 12:00 PM, 3 business days prior to the hearing.

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

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

Representation and Interpretive Services

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

The family is entitled to request an interpreter. Upon request, the CHA will provide competent interpretation services, free of charge.

Recording of the Hearing

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

Hearing Decision

The CHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 10 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

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

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 CFR 5.514(h)]

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

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

EXHIBIT 16.1: STATEMENT OF FAMILY OBLIGATIONS

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

The family must:

- Supply any information the CHA or HUD determines to be necessary including evidence of citizenship or eligible immigration status.
    - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. (See 24 CFR 982.552(b)(4) and 24 CFR 5.514(c).)
- Supply any information the CHA or HUD determine to be necessary for use in administering the program, including conducting a regularly scheduled re-examination or interim re-examination of family income and composition.
    - See 24 CFR 982.551(b)(1)-(2).
- Disclose and verify social security numbers.
    - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 5.218(c).
- Sign and submit consent forms for obtaining information.
    - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.552(b)(3).
- Allow the CHA and/or owner to inspect the dwelling unit at reasonable times and after reasonable notice.
    - Allow the owner/landlord access to the unit to make repairs. See 24 CFR 981.551(d).
- Commit any serious or repeated violation of the lease,
    - Even if the violation does not lead to eviction.
    - CHA 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, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.
    - *Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not

be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- Notify the CHA and the before moving out of the unit or terminating the lease.
  - The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the CHA at the same time the owner is notified.
  - The family must provide a written notice to CHA that is signed by the landlord, stating that the family is leaving in good terms.

- If the family is found to owe the landlord rent (current or back), the rent must be paid in full before CHA will issue the family a voucher to move.

- Promptly give the CHA a copy of any owner eviction notice
  - Within 10 days

- Use the assisted unit for residence only by the family that is listed on the HAP contract and the lease. The unit must be the family's only residence.

- Receive CHA approval for the family residing in the unit.
  - Notify the CHA in writing the birth, adoption, or court awarded custody of a child, within 10 days
  - Request CHA's written approval to add any other family member as an occupant of the unit, within 10 days
  - CHA will also require written documentation of landlord approval to add the additional household member(s) to the lease

- Promptly notify the CHA in writing if any family member no longer lives in the unit.
  - Within 10 days

- Request and obtain CHA approval before adding a live-in aide or foster child/adult to the household

- Supply any information requested by the CHA to verify that the family is living the unit or information related to family absence from the unit.

- Promptly notify the CHA when the family is absent from the unit for an extended period of time.
  - Within 10 days
  - An extended period is defined as any period greater than 30 calendar days *in any 45-day period*. Written notice must be provided to the PHA at the start of the

extended absence *unless disability or medical circumstances would prevent that from happening.*

- Maintain the unit in accordance with Housing Quality Standards
  - Pay utility bill and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher]
- Report all changes in annual income if the family has zero income prior to the change.
  - Within 10 days.
- Follow the CHA's policy regarding guests. A guest is defined as a person temporarily staying in the unit with the consent of the head of household or another adult member. See 24 CFR 5.100. A guest may visit a family in an assisted unit for a total of 30 calendar days in a calendar year; however, each visit cannot exceed 14 consecutive calendar days. A visit is defined as an overnight stay.

  Participants may request a time extension to this visitor timeframe. Persons that exceed the time as a guest will be considered an unauthorized occupant and the family will be subject to program termination. Verification of an unauthorized occupancy can be established through the following:

  (1) Statements from landlord;

  (2) Statement from neighbors;

  (3) Government issued ID's or reports;

  (4) Police reports;

  (5) Post Office report;

  (6) Other documentation or investigations.
- Attend informational briefings and required appointments including but not limited to those scheduled to discuss violations of family obligations and allegations of criminal activity in the family's unit, building or local area.
- Continue to meet ongoing eligibility requirements in the case of students. 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 and is not residing with his/her parents in an HCV assisted household, the CHA will terminate the student's assistance if, at the time of re-examination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit. The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.552(b)(5).

The family (including each family member) must not:

- Own or have any interest in the unit (other than in a cooperative or in the case of a voucher holder participating in the homeownership program).

- Commit any serious or repeated violation of the lease.

- CHA 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, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

- Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

- Engage in any drug-related criminal activity

    - Or allow guest to engage in any drug related criminal activity

    - 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 [24 CFR 5.100]. Drug means a controlled substance as defined in Section 802 of the Controlled Substances Act [21 USC 802] or any other illegal drug.

    - The CHA may terminate assistance for a family if:

- Any household member or guest, including those who are 17 years of age, is currently engaged in drug-related criminal activity, or has engaged in drug-related criminal activity within the past three years.

- i. Any illegal drug use or pattern of illegal drug use by a household member or guests, including those who are 17 years of age, interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

- The CHA may terminate assistance for drug-related criminal activity by a household member if the CHA determines that the household member has engaged in the activity within the last five years.

- Engage in any violent criminal activity

    - Or allow guest to engage in any violent criminal activity

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

- Engage in any other criminal activity
  - Or allow guest to engage, in any other criminal activity
  - 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. Immediate vicinity means within a one-mile radius of the premises. See 24 CFR 5.100.
  - The CHA may terminate assistance for criminal activity by a household member or guest if the CHA determines that the household member has engaged in the activity within the last five years.

- Sublease or let the unit or assign the lease or transfer the unit
  - Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- Receive Housing Choice Voucher program housing assistance while receiving another housing subsidy for the same unit or a different unit under any other federal, state, or local housing assistance program. See 24 CFR 982.551(n).

- Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises
  - The family is responsible for any damages to the unit or premises that are damaged by any guest/visitor/unauthorized person.
  - Damages beyond normal wear and tear will be damages which could be assessed against the security deposit *as* determined by Maine State law.
  - If the family is found to owe the landlord money for damages (current or back), the amount must be paid in full (no more than 30-days), or termination may start on the voucher.

- Receive Housing Choice Voucher program housing assistance while residing in a unit owned by a spouse, domestic partner, parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the CHA 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.

- 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 and/or community.

- Be evicted due to serious violation of the lease.
    - The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.552(b)(2).
    - The family is responsible for any serious or repeated violation of the lease that is caused by any guest/visitor/unauthorized person.
    - CHA considers a family evicted if the landlord files an eviction action and the court enters an order of possession, even if:
        (1) a money judgment is not entered concurrently with the order of possession, or
        (2) the family moves out of the subsidized unit before the order of possession is entered or physically enforced.
    - CHA may consider a family to be evicted if the order of possession is an agreed order. The CHA will not consider a family to be evicted, however, if the order of possession is entered concurrently with a written settlement agreement pursuant to which the family repays all unpaid back rent and rent when due while they remain in possession of the subsidized unit.
- Threaten or engage in abusive or violent behavior or criminal activity toward CHA personnel or its representatives. See 24 CFR 982.552(c)(1)(ix) and 24 CFR 5.100. CHA personnel include CHA employees or CHA contractors, subcontractors, or agents.
    - Or allow guest to threaten or engage in behavior
    - Abusive or violent behavior towards CHA personnel or agents and contractors 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.
- Engage in behavior that disturbs or threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.
    - Or allow guest to engage in behavior
- Fail to attend two consecutive, scheduled re-examination appointments without CHA approval.
- Be subject to a lifetime requirement to register as a sex offender in any state or territory of the United States.

- Have committed or be convicted of a drug-related crime for the manufacture or production of methamphetamine on the premises of federally assisted housing. The CHA is required by HUD to terminate a family's assistance if they do not meet this obligation. See 24 CFR 982.553(b)(1)(ii).

- Have had any public housing authority (PHA) previously terminate assistance under any federally assisted housing program within the last three years. See 24 CFR 982.552(c)(1)(iii). This policy excludes voluntary terminations.

- Currently owe rent or other amounts to any PHA in connection with the HCV (including PRA and RAD), Moderate Rehabilitation or public housing programs, unless the family currently has a repayment agreement and is complying with its terms. See 24 CFR 982.552(c)(1)(v). This includes, but is not limited to:

    - Failure to reimburse a PHA for amounts the PHA paid to an owner for amounts owed by the family under the lease.

    - Breaching the terms of a repayment agreement entered with the CHA. See 24 CFR 982.552(c)(1)(vii). See Chapter 14-Program Integrity for further discussion on repayment agreements.

    - Any repayment agreement within the past six years.

17.0 TERMINATION OF TENANCY BY OWNER

[24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

17.1. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

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, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence against Women Act of 2013 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA'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

- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy.

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 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 the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, 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

- 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.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate.

17.2 . 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 the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice.

- If the eviction action is finalized in court, the owner must provide the CHA 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.

17.3 DECIDING WHETER TO TERMIANTE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so and may consider all 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 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, sexual assault or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

17.4 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 the CHA has no other grounds for termination of assistance, the CHA may issue a new voucher so that the family can move with continued assistance.

18.0 MAINSTREAM VOUCHER PROGRAM

Mainstream Vouchers (MSV) are a sub-set of the Housing Choice Voucher (HCV) program. Sec811 Mainstream Vouchers are awarded to Public Housing Authorities through a competitive Notice of Funding Availability (NOFA) to serve low-income households that include person(s) with disabilities. The program is designed to help tenants with disabilities live independently in the community. Caribou Housing Authority (CHA) was awarded 40 MSV in January 2021. This program helps to further the goals of the Americans with Disabilities Act by helping persons with disabilities live in the most integrated setting. The program also encourages partnerships with health and human service agencies with a demonstrated capacity to coordinate voluntary services and supports to enable individuals to live independently in the community

18.1 PURPOSE AND SCOPE

MSVs enables families with a member who is a person with disabilities to lease affordable private housing of their choice. MSVs also assist persons with disabilities who often face difficulties in locating suitable and accessible housing on the private market. Only a family that includes a disabled person and is eligible may receive an MSV.

Applicants will be selected from the Maine HCV wait list.

- CHA will give preference for an MSV first to those households who have members who are adult disabled persons who are not elderly (are of age 18 but no older than 61 years of age)

The disabled person indicated is:

- transitioning out of institutional or other separated settings;
- at serious risk of institutionalization;
- homeless; or
- at risk of becoming homeless

If at any time there are no such applicant families available, CHA may turn to any household on the wait list with a head of household, spouse or co-head who is disabled.

ACC number of units and funding are to be entered and monitored separately from the HCV financial management and in VMS. It has been assigned a program increment to do so.

18.2 WORKING WITH LOCAL PARTNERS *(*Notice PIH 2020-01, HUD, Mainstream Program Implementation FAQs 3.22.2019, NOFA FR FR-6300-N-43)

A major aspect of the administration of the Mainstream Voucher Program is the CHAs commitment to work with local partners to expand opportunities for individuals and families to access quality affordable rental housing. CHA has a history of successful collaborations with local partners which includes;

CHA currently administers a voucher referral program with DHHS). In administering the MHCVP, CHA will work directly with local partners who will be assisting with coordinating outreach and referral of eligible persons that meet the CHA's waiting list preference criteria, as well as, assist persons with disabilities to apply to and obtain acceptance in housing programs. In addition, CHA and local partners will work together to provide ongoing behavioral health and social services to CHA's Mainstream Voucher holders (on a voluntary basis).

- CHA will meet regularly with local agencies to ensure that partnerships remain viable. These local agency partners include but are not limited to:

- Meetings will be held to develop plans and discuss potential referrals (once waiting list is opened), continued case management, and available services for Mainstream Vouchers holders.

18.3 MAINSTREAM PROGRAM DEFINITIONS

All definitions in the main body of the Section 8 Housing Choice Voucher (HCV) Administrative Plan where appropriate, will apply to the Mainstream Voucher Program.

*Eligible Family***:** A family composed of one or more non-elderly persons with disabilities, which may include additional members who are not elderly persons with disabilities.

Disability: CHA will use the definition of disability which is used in the Housing Choice Voucher Program. (42 U.S. Code §423) for Mainstream eligibility.

A Mainstream *eligible non-elderly disabled* family is**:**

1.) .A person 18 years of age or older and less than 62 years of age, and who has a disability and is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that is expected to be of long continued and indefinite duration and; •

a.) Substantially impedes his or her ability to live independently, and

b.) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions or;

c.) Has a development disability as defined in 42 U.S.C. 6001.

Targeted Funding: HUD may award a PHA Funding for a specialized category of families on the waiting list. The PHA must use this funding only to assist the specified category. To assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category.

18.4 GENERAL REQUIREMENTS AND ELIGIBILTIY (

A. Eligible Population [Notice PIH 2020-01]

Mainstream Vouchers (also formerly known as Mainstream 5-Year Vouchers or Section 811 Vouchers) are tenant-based vouchers that serve a special population of households. All Mainstream Vouchers will now serve households that include a non-elderly person(s) with disabilities, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old at the effective date of the initial Housing Assistance Payment (HAP) Contract, (i.e., the effective date of the New Admission [action code =1] on the form HUD-50058 (or form HUD-50058 MTW). Once eligible, participants do not "age out" of eligibility.

Existing families receiving Mainstream Vouchers, where the eligible family member is now age 62 or older, will NOT "age out" of the Mainstream Voucher Program as long as the family was eligible on the day it was first assisted under a HAP contract.

B. Nondiscrimination & Fair Housing

Aside from separate funding appropriations and serving a specific population, Mainstream Vouchers are administered the same as regular voucher assistance in that Mainstream Vouchers are regulated under the same program requirements as the HCV Program. The same regulations at 24 CFR Part 982 apply to Mainstream Vouchers. Federal nondiscrimination laws and requirements apply as with all HCVs, including for example, requirements regarding nondiscriminatory eligibility criteria, and obligations to provide reasonable accommodations for person with disabilities. See 24 C.F.R. § 5.105(a). There is no special authority to treat families that receive a Mainstream Voucher differently from other applicants and participants of the HCV program. For example, the PHA cannot apply different payment standards, establish conditions for allowing portability, or screening

- CHA will treat all Mainstream applicants and voucher holders with the same service, laws, and regulations as all other CHA HCV applicants and participants.

B. Reasonable Accommodation

Request for an Accommodation If an applicant or participant in any Federal housing program administered by CHA, including the Mainstream Voucher Program, indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the CHA 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 CHA's programs and services. If the need for the accommodation is not readily apparent or known to CHA, 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.

- CHA will follow all regulations and policies governing reasonable accommodation listed in the current HCVP Administrative Plan.

C . DENIAL OF ASSISTANCE

- CHA will follow the regulations and policies governing the denial of assistance as listed in in the current HCVP Administrative Plan.

18.5 WAITING LIST ADMINISTRATION AND PREFERENCES

CHA must lease the awarded vouchers by selecting Mainstream-eligible applicants from the waiting list. The CHA is not permitted to reassign existing participants to the Mainstream Voucher Program to make regular tenant-based vouchers available. There is no provision that allows CHA to admit tenants without following their waiting list procedures when using a Mainstream Voucher.

A. New Preferences Added [24 CFR 982.207(c); Notice PIH 2020-01, NOFA FR-6300-N-43.]

CHA will grant one additional point to non-elderly persons with disabilities.

CHA will limit the number of preferences awarded to 40, the number of vouchers awarded in January 1, 2021. The agency will increase the number of preferences granted if the authority receives additional Mainstream Awards in the future.

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 CHA'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 PHA.

A. The Waiting List (Notice PIH 2020-01), (24 CFR §982.204, 207), (NOFA, FR6300-N-43), (HUD Mainstream Program Implementation FAQ, 3.22.2019)

CHA will maintain only one tenant-based voucher assistance waiting list from which Mainstream Program applicants will be pulled. CHA will apply all required HUD regulations governing the administration of CHA's Housing Choice Voucher waiting list to the MHCVP.

B Opening the Waiting List and Notifying the Public [Notice PIH 2020-01]

- CHA will comply with the requirements for opening the waiting list under 24 CFR 982.206, including the requirement to provide public notice and to accept applications from families for whom the list is open, and in accordance with current Administrative Plan.

If the waiting list does not have a suitable number of Mainstream Voucher eligible applicants the CHA may update the waiting list.

Updating Waiting List for change in eligible population: CHAs may choose to do a full waiting list update if there is not a suitable number of Mainstream eligible applicants. A full update may be done regardless of whether a CHA will be opening the waiting list or not.

A Full Waiting List Update is performed on the entire existing waiting list to determine if all current applicants meet the eligibility criteria for Mainstream Vouchers and the new preferences that were adopted. This also ensures that the CHA is offering the opportunity for current applicants on the waiting list who qualify for the Mainstream preferences to receive the benefit of the preference and move up on the waiting list accordingly.

- When performing a full waiting list update, CHA will notify all currently active tenant--based HCV waiting list applicants that new preferences have been added. The notice will include information on how to successfully apply and establish their preference status. In addition, CHA will provide with each notice, a preference update form which, may be directly (in office) or indirectly (mail, email) submitted to CHA.

- CHA may also make available preference update forms for partnering agencies with whom CHA may be working with to identify current waiting list applicants eligible for newly adopted Mainstream preferences.

C. **Selecting Applicants** [24 CFR 982.554(a)].

CHA will notify the family by first class mail when it is selected from the waiting list. The notice will inform the family of the following:

1.) Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview.

2.) Who is required to attend the interview

3.) All documents that must be provided at the interview, including information about what constitutes acceptable documentation

If a notification letter is returned with no forwarding address, the family will be removed from the waiting list. A notice of denial will be sent to the family's address of record, as well as to any known alternate address.

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

If CHA determines that the family is ineligible, CHA will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility, and will inform the family of its right to request an informal review. If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list the family will be returned to its original position on the waiting list. CHA will

notify the family in writing that it has been returned to the waiting list, and will specify the reasons for it.

If CHA determines that the family is eligible to receive assistance, CHA will invite the family to attend a briefing in accordance with the policies.

C. Eligibility Verification

Mainstream "eligible families" must meet the same HUD eligibility verification requirements as any other tenant-based voucher applicant. To be eligible for the Mainstream Housing Choice Voucher Program:

1.) The applicant family (single or multiple household members) must;

a.) Qualify as a family as defined by HUD and CHA.

b.) Have income at or below HUD-specified income limits.

c.) Qualify on the basis of citizenship or the eligible immigrant status of family members.

d.) Provide social security number information and birth certificates for family members as required.

e.) Consent to the CHA's collection and use of family information as provided for in CHA-provided consent forms.

- When determining the eligibility of Mainstream applicants, CHA will follow the regulations and policies governing the verification of eligibility which is listed in detail in the current HCVP Administrative Plan,

D. Criteria for Beneficiaries/Ongoing Program Participation

This program has eligibility criteria for beneficiaries. Mainstream Voucher recipient households must include a person that meets the definition of a non-elderly person with a disability. If the household member who qualified for the Mainstream Voucher program is no longer a member of the household and no other household member meets the eligibility criteria for the Mainstream Voucher, CHA may, but is not required to, offer the family a regular Housing Choice Voucher if funding is available and the household is otherwise eligible.

18.6 PORTABILITY

Portability is a required feature of the Housing Choice Voucher Program (§8(r) of the U.S. Housing Act of 1937).

Applicants where the head, co-head, or spouse did not have legal domicile in the PHA's jurisdiction at the time the family first submitted their application do not have the right to portability until they have leased a unit in the jurisdiction for 12 months, however, the PHA may choose to allow portability during this period (CFR §982.353(c)(2)). PHAs must keep in mind that persons with disabilities may request a reasonable accommodation to port out before meeting the one-year residency requirement if there is a nexus between the person's disability and their need to move out of the jurisdiction.

If a Mainstream Voucher participant ports to another PHA and the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream Voucher. If the PHA chooses to absorb the voucher, the voucher will be considered a regular Housing Choice Voucher, or a Mainstream Voucher if the receiving PHA has a Mainstream Voucher available, and the Mainstream Voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.

- CHA will not permit Mainstream Voucher portability for voucher holders where the head, co-head, or spouse did not have legal domicile in the PHA's jurisdiction at the time the family first submitted their application until they leased a unit in the jurisdiction for at least twelve (12) months. CHA may allow portability for Mainstream Voucher holders as a reasonable accommodation before the twelve (12) month period on a case-by case basis.

18.7 MAINSTREAM VOUCHER UTILIZATION

A. Voucher Allocation

In January 2021, CHA was awarded forty (40) Mainstream Vouchers with the opportunity to apply for additional vouchers via HUD grants in the future. HUD expects that PHAs will make every effort to utilize at least 80% of awarded vouchers within the first year of receiving them. After the first year of program administration, HUD reserves the right to recapture and reallocate funding if the PHA does not comply with the terms of an 80% leasing rate. In addition, if the PHA does not maintain a leasing rate of at least 80% after the first year, HUD may recapture and reallocate the funding.

B. Voucher Utilization (Notice PIH 2020-01, NOFA, FR-6300-N-43, HUD Mainstream Program Implementation FAQ 3.22.2019)

Once a Mainstream eligible applicant is pulled from the waiting list, they are subject to the same regulations and policies governing all tenant-based housing choice applicants and voucher holders. This includes but is not limited to, verification of eligibility, voucher utilization, leasing, income/subsidy determination & verification, annual re-examinations, and all other

regulations and policies that are applied to tenant-based voucher holders in this Plan, unless noted otherwise.

Once a Mainstream voucher is issued to a non-elderly, disabled Mainstream eligible family, they cannot "age-out" of the Mainstream subsidy.

C. Reissuance of Mainstream Vouchers

At turnover, ALL Mainstream turnover vouchers must be reissued to the next Mainstream eligible family on the PHA's waiting list. Turnover occurs when a family receiving Mainstream voucher assistance leaves the program.

D. PIC Reporting [Notice PIH 2020-01]

CHA ensures:

- ***Form HUD-50058 and Form HUD-50058 MTW*** – PHAs must submit a form HUD-50058 (or form HUD-50058 MTW) to IMS/PIC or successor system for all transactions, including Voucher Issuance (action code 10), Voucher Expiration (action code 11), and End of Participation (action code 6). For a full list of required actions, see the Form HUD-50058 Instruction Booklet. Submission of all required actions is important for HUD's monitoring and evaluation of the Mainstream Voucher Program.

- ***Other Special Program field*** – All Mainstream families will be coded on line 2n of the Family Report (form HUD-50058) and on line 2p of the MTW Family Report as "MS5". In cases of portability, the initial PHA must include "MS5", as applicable, on the HUD-50058, Family Report sent to the receiving PHA. Receiving PHAs must maintain the "MS5" code on their Family Reports for the duration of the family's participation in the Mainstream Voucher Program if the receiving PHA is billing the initial PHA. The PHA should not code more families than the number of Mainstream Vouchers awarded.

- ***Homeless at admission*** – PHAs must use line 4c "Homeless at admission? (Y or N)" of the HUD-50058 or MTW Family Report to accurately report whether the family being admitted to the program was homeless at the time of admission.

E. VMS Reporting [Notice PIH 2020-01]

All PHAs must report all Mainstream Vouchers leased under the Mainstream 5-Year HAP and UML fields in the Voucher Management System. As with IMS/PIC reporting, PHAs must not report more Mainstream families than the established calendar year baseline of Mainstream Vouchers. Mainstream Vouchers that have been ported and are being billed to the initial PHA must be reported under the Mainstream 5-Year field. If the PHA chooses to absorb the voucher, the voucher will be considered a regular voucher and the Mainstream Voucher at the initial PHA will be freed up to lease to another eligible family.

No other VMS line item will include Mainstream Voucher activity, such as Restricted Net Position (RNP), Unrestricted Net Position (UNP), Cash/Investment, Non-MTW Administrative Expenses, etc.

- CHA will follow regulations written above from Notice PIH 2020-01

F. SECTION EIGHT MANAGEMENT ASSESSMENT PROGRAM [Notice PIH 2020-01] (SEMAP Indicator 13 (Lease-up)

Mainstream Vouchers, excluding all new awards for the first year, must be included in the utilization rate for the purposes of determining the PHA's overall utilization under Indicator 13. PIC's calculation of the Lease-up indicator incorrectly excludes Mainstream Vouchers from consideration. The Financial Management Center (FMC) determines the Indicator 13 utilization rate for all PHAs using VMS reported expenses and leasing and sends the calculations to the appropriate Field Office to distribute to the PHA. Using VMS, PHAs can approximate their overall utilization rate for SEMAP by adding the Mainstream 5-Year data to the overall HCV program data.

- Example of how newly awarded Mainstream Vouchers are handled:

  Effective date of new vouchers: 6/1/2018

  First increment expiration: 5/31/2019

- CHA will follow regulations written above from Notice PIH 2020-01.

G. Financial Data Schedule Reporting [Notice PIH 2020-01]

As clarified in PIH Notice 2012-21, PHAs should report Mainstream Vouchers under the Catalogue of Federal Domestic Assistance (CFDA) number 14.879 "Mainstream Vouchers" in the Financial Assessment of Public Housing Agencies (FASS-PH). This applies to all Mainstream Vouchers, including those awarded prior to 2018.

- CHA will follow regulations written above from Notice PIH 2012-21.

H. Monitoring [Notice PIH 2020-01]

All Grantees will be required to cooperate with HUD, Department of Health and Human Services (DHHS), and Centers for Medicare & Medicaid Services (CMS), or any contractors affiliated with HUD, DHHS, and CMS in evaluating this program. HUD will monitor utilization, program requirements, and compliance with PHA's individual NOFA application, including preference implementation and service offerings.

- CHA will follow regulations written above from Notice PIH 2020-01.

19.0 FOSTER YOUTH TO INDEPNDENCE VOUCHER PROGRAM

[NOTICE PIH 2019-20]

Foster Youth to Independence allows for PHAs without a current Family Unification Program (FUP) voucher allocation to request vouchers to service youth under the age of 25 with a history of child welfare involvement for up to 36 months, with Foster Youth to Independence (FYI).

19.1 DEFINITIONS

Continuums of Care (CoCs)

Department of Health and Human Services (DHHS)

Public Child Welfare Agency (PCWA) PCWA means the agency that is responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out of-home care under the supervision of the public agency may be returned to his or her family, or that a youth is at least 18 years and not more than 24 years of age and left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act, and is homeless or is at risk of becoming homeless at age 16 or older. For purposes of this program, the PCWA is the State of Alaska Office of Children's Services.

Eligible Household A youth certified by a PCWA as meeting the following conditions: a) Has attained at least 18 years and not more than 24 years of age; b) Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 or older; and c) Is homeless or is at risk of becoming homeless at age 16 or older. Eligibility is not limited to single persons. Youth may be pregnant or have custody of minor children.

Homeless (24 CFR 578.3) means:

1.) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

a) An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

b) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or

c) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

2) An individual or family who will imminently lose their primary nighttime residence, provided that:

a.) The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;

b.) No subsequent residence has been identified; and

c.) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;

3.) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

a.) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

b.) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

c.) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

d.) Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

4.) Any individual or family who:

a.) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has

either taken place within the individual‘s or family‘s primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

b.) Has no other residence; and (iii) Lacks the resources or support networks, e.g., family, friends, and faith based or other social networks, to obtain other permanent housing.

At Risk of Becoming Homeless (24 CFR 576.2)

1.) An individual or family who:

a.) Has an annual income below 30 percent of median family income for the area, as determined by HUD;

b.) Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the ‘‘homeless’’ definition in this section; and

c.) Meets one of the following conditions:

i. Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

ii. Is living in the home of another because of economic hardship;

iii. Has been notified in writing that their right to occupy their current housing or living situation will be terminated within 21 days after the date of application for assistance;

iv. Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by Federal, State, or local government programs for low-income individuals;

v. Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons or lives in a larger housing unit in which there reside more than 1.5 persons reside per room, as defined by the U.S. Census Bureau;

vi. Is exiting a publicly funded institution, or system of care (such as a health-care facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

vii. Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient’s approved consolidated plan;

d.) A child or youth who does not qualify as ‘‘homeless’’ under this section, but qualifies as ‘‘homeless’’ under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e–2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

e.) A child or youth who does not qualify as ‘‘homeless’’ under this section, but qualifies as ‘‘homeless’’ under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Required Supportive Services The services listed in (A) through (E) below must be provided for a period of 36 months to FUP-eligible youth receiving rental assistance through this notice. A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the voucher.

1) Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation; and access to health care (e.g., doctors, medication, and mental and behavioral health services).

2) Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits.

3) Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a voucher.

4) Job preparation and attainment counseling (where to look/how to apply, dress, grooming, and relationships with supervisory personnel, etc.).

5) Educational and career advancement counseling regarding attainment of general equivalency diploma (GED); attendance/financing of education at a technical school, trade school or college; including successful work ethic and attitude

19.2. FYI ELIGIBILITY

FYI will be administered in accordance with applicable HCV program regulations and requirements, as set forth in 24 CFR 982. For CHA to be eligible to request FYI it must meet all the following:

- Currently administering the HCV program.
- Does not currently administer FUP vouchers awarded under any fiscal year.
- Have a partnership with a public child welfare agency (PCWA).
- Accept FUP-eligible youth referrals.
- Determine HCV eligibility.

CHA has a Memorandum of Agreement (MOA) with the Department of Health and Human Services (DHHS) Child Welfare Services (CWS) to receive referrals for FYI.

1.) CWS will identify eligible youth and provide a written certification to the CHA verifying eligible child welfare history.

- DHHS will provide or secure 36 months of supportive services.

2.) The CHA will accept referrals from CWS, verify eligibility for FYI, and will request a voucher for the youth through HUD.

- The Youth cannot be assisted until HUD has approved the FYI voucher.
- CHA can only request up to 25 FYI vouchers per fiscal year; and
- administer FYI for eligible youth for up the 36 months.

3.) CHA may admit the young person that is not on the CHA's HCV waiting list, or without considering the young person's waiting list position.

19.3 . PARTENERSHIP AGREEMENT

PHAs applying for assistance under this notice must enter into a partnership agreement with a PCWA. HUD strongly encourages adding the CoC, or a CoC recipient it designates, to the partnership. The partnership agreement may take the form of a Memorandum of Understanding (MOU) or letters of intent between the parties.

19.4 . RESPONSIBILITIES OF EACH PARTY

A. DHHS Responsibilities

Under its collaboration with CHA, DHHS has agreed to:

1) Develop and implement a system for identifying eligible youth within the agency's caseload and review referrals from BHA and other Community of Care (CoC) Members.

2) Develop and implement a system for prioritization of referrals to ensure that youth are prioritized for a FYI TPV based upon level of need and appropriateness of the intervention.

3) Receive youth Release of Information and provide written certification to the CHA that a youth meets eligibility conditions listed above

4) Collaborate with CHA on the provision of services to FYI-TPV recipients for no more than thirty-six (36) months. The organization(s) to provide these services will be identified from various community-based organizations. Services include:

    a) Basic life skills information and counseling on money management, use of credit, housekeeping, proper nutrition, meal preparation, and access to health care (e.g. doctors, medication, and mental and behavioral support services).

    b) Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits.

    c) Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a voucher.

    d) Job preparation and attainment counseling (where to look/how to apply, dress, grooming, and relationships with supervisory personnel, etc.).

    e) Educational and career advancement counseling regarding attainment of general equivalency diploma (GED); attendance/financing of education at a technical school, trade school or college; including successful work ethic and attitude models.

B. CHA Responsibilities

1) Accept referrals of Youth certified by DHHS as eligible for assistance under this notice.

2) Determine if youth referred by DHHS are eligible for HCV assistance.

3) Make referrals of possible eligible youth to DHHS.

4) Formally request FYI—TPV vouchers for eligible youth and provide HUD with all required information.

5) Apply all policies and procedures of the HCV programs to the lease-up and ongoing management of the FYI participant's tenancy and make proper use of funding for HAP Contract obligations with participating landlords.

6) Collaborate DHHS on the provision of services to TPV recipients for no more than thirty-six (36) months. The organization(s) to provide these services will be identified from various community-based organizations. Services include:

    a) Basic life skills information and counseling on money management, use of credit, housekeeping, proper nutrition, meal preparation, and access to health care (e.g. doctors, medication, and mental and behavioral support services).

    b) Counseling on compliance with rental lease requirements and with the HCV program participant requirements, including assistance and referrals for assistance for security deposits, utility hook-up fees, and utility deposits.

    c) Provide such assurances to owners of rental property as are reasonable and necessary to assist an eligible youth to rent a unit with a voucher.

    d) Job preparation and attainment counseling, including where to look, how to apply, dress, grooming, and relationships with supervisor and co-workers.

    e) Education and career advancement counseling regarding attainment of GED, attendance, and financing of education (including technical school, trade school, and college), work ethic, and attitude.

19.5 MINIMUM AND MAXIMUM VOUCHER REQUESTS

There is no minimum request size. A PHA request may be as small as one voucher. Given the limited nature of this resource, each PHA is limited to a maximum award of 25 vouchers under this notice in a fiscal year. PHAs that have not reached the maximum annual cap may submit more than one application under this notice. An application for FYI Vouchers under this notice may not occur until the PHA has received a referral of a FUP-eligible youth by the partnering PCWA.

Applying for funds under this notice does not exclude PHAs from pursuing funding under a future FUP NOFA, assuming all eligibility requirements of the NOFA are otherwise met.

19.6 ADMINISTRATION OF FYI VOUCHER

Waiting List

CHA will not run a waiting list for FYI applicants.

The CHA, upon receipt of a referral(s) from the public child welfare agency (PCWA) of an eligible youth, must compare the name(s) with youth already on the CHA's HCV waiting list. Any youth on the PHA's HCV waiting list that matches with the PCWA's referral must be assisted in order of their position on the waiting list in accordance with CHA admission policies. Any youth certified by the PCWA as eligible and not on the HCV waiting list must be placed on the waiting list (pending HCV eligibility determination).

If the CHA has a closed HCV waiting list, it must reopen the waiting list and place on the waiting list a FYI applicant youth who is not currently on the CHA's HCV waiting list. The CHA may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants

Eligibility

A young person eligible to receive a FYI must meet all of the following requirements:

1) Has attained at least 18 years of age and not more than 24 years of age;

2) Left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 or older; and

3) Is homeless or at risk of becoming homeless.

A young person who meets the above requirements and is pregnant and parenting is also eligible if the children they are parenting do not have an open child welfare case. The young person must not have reached 25 years of age at the time of referral and at the time of lease-up.

- To determine initial eligibility all referrals will be sent to Dulcey Laberge at the DHHS for verification: Dulcey.Laberge@maine.gov.

FYI Family Lease Up

Once the applicant family has been found eligible for an FYI Voucher, the family is to follow all of the same rules and policies as an HCV participant.

- Once leased, the eligible young person may continue on the program for 36 months even if they turn 25 while on the program.

19.7 50058 CODING

All FYI 50058s created must have code “FYI” in line 2n. These vouchers will be reported in the Voucher Management System in category “Family Unification – Non MTW

19.8 CONTINUATION OF ASSISTANCE

For FYI Voucher holders who reach the three-year maximum use of the voucher and continue to demonstrate need. HCV Vouchers may be allocated if they are available.

THIS SECTION WILL BE AMENDED AS REQUIRED UPON RECEIPT OF ANY FURTHER CLARIFYING OR NEW REGULATIONS PROVIDED BY THE DEPT. OF HOUSING AND URBAN DEVELOPMENT.

20.0 HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

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. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

20.1. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance.

- The family must have been admitted to the Housing Choice Voucher program.
    - Only current participants in the HCV program who have received rental assistance for at least one full year may apply for the HCV Homeownership program and are in good standing may apply for the HCV Homeownership program.

      CHA defines good standing for the HCV Homeownership program as:

        - No debts owed to CHA, other PHAs, or current landlord
        - Not in violation of their lease or family obligations under the HCV 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. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA'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.

- 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, the PHA must grant an exemption from the employment requirement if the PHA 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).

20.2 SELECTION OF FAMILIES [24 CFR 982.626]

In addition to meeting HUD eligibility requirements for homeownership assistance, the family must:

- Reside in the CHA's jurisdiction unless CHA has a reciprocity agreement with the housing authority in whose jurisdiction the family chooses to live.

20.3 ELIGIBLE UNITS [24 CFR 982.628]

For a unit to be eligible, the CHA must determine that the unit satisfies all of the following requirements:

1) 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.
2) The unit must be under construction or already exist at the time the family enters the contract of sale.

3) The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.

4) The unit must have been inspected by the CHA and by an independent inspector designated by the family.

5) The unit must meet Housing Quality Standards.

6) 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.

7) For CHA-owned units all of the following conditions must be satisfied:

    - The CHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a CHA-owned unit is freely selected by the family without CHA pressure or steering;

    - The unit is not ineligible housing;

    - The CHA 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 CHA provided financing. All of these actions must be completed in accordance with program requirements.

20.4 ADDITIONAL PHA 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. The CHA 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 the CHA, the HA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

- The family has two years to locate and purchase a home (the length of the required homeownership counseling certificate).

- During this time frame, a family will continue to receive HCV rental assistance in accordance with any applicable lease and the HAP contract unit until the family vacates the rental unit for its purchased home.

- The family will be required to report their progress on locating and purchasing a home to CHA every 60 days until the home is purchased.

20.5 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. HUD suggests the following topics for the PHA-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 the PHA 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.

All families wishing to participate in the Homeownership Program must complete a 12 hours pre-purchase homeownership counseling course.

20.6 HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER [24 CFR 982.631]

Home Inspections

The CHA may not commence monthly homeownership assistance payments for a family until the CHA has inspected the unit and has determined that the unit passes HQS.

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.

The CHA may not require the family to use an independent inspector selected by the CHA. The independent inspector may not be a C HA employee or contractor, or other person under control

of the CHA. However, the CHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The CHA 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.

Contract of Sale

Before commencement of monthly homeownership assistance payments, 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 the CHA 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, the CHA may deny approval of a seller for the same reasons a CHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

20.7 FINANCING [24 CFR 982.632]

The CHA 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.

CHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

- CHA does not provide down payment assistance.
- CHA may approve a family's request to utilize its Family Self-Sufficiency escrow account for a down payment and/or closing cost when purchasing a unit under the HCV Homeownership Program.
- Refinancing the property, without prior written approval from CHA may result in termination of the HCV homeownership assistance.

20.8 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, the CHA will not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the CHA 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 CHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by CHA or HUD concerning mortgage financing or refinancing, sale, or transfer of any interest in the home, or homeownership expenses.
- The family must notify CHA before moving out of the home.
- The family must notify the CHA 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).

20.9 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 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.

20.10 HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of:

1.) The voucher payment standard minus the total tenant payment, or

2.) The monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the CHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of

1) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or

2) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The CHA HAP will be paid directly to the family or the lender, if required by the lender. If paid to the family, it will be the family's responsibility to make the entire payment to the lender. CHA may make the exception if the family requests the payment to go directly to the lender and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, CHA must pay the excess directly to the family. The family, at its option, can also place these funds in an escrow account that can be used for repairs or other homeownership expenses.

Homeownership expenses (not including cooperatives) only include amounts allowed by the CHA to cover:

- Monthly Homeownership Payment: this includes principal and interest on initial mortgage and debt, taxes, insurance, and any mortgage insurance premium, if applicable.

- Utility Allowance: CHA's utility allowance for the unit, based on the current PHA utility allowance schedule.

- Monthly Maintenance Allowance: the monthly maintenance allowance will be the annual maintenance allowance divided by 12. The annual maintenance allowance will be set at $600 per year.

- 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 at $600 per year

- Monthly Principal and Interest on Debt for Handicap Accessible Improvements: principal and interest for major home repair, replacements, or improvements, if applicable

Homeownership assistance for a family automatically terminates 180 calendar days after the last homeownership assistance payment on behalf of the family. However, CHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

20.11 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 CHA policies, a family may exercise portability if the receiving CHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA 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 the PHA.

20.12 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.

CHA may deny permission to move to a new unit with continued voucher assistance:

- If the CHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the CHA's policy regarding number of moves within a 12-month period.

CHA 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.

20.13 DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the CHA 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).

The CHA 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.

CHA 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.

- CHA will terminate a family' homeownership assistance if the family violates of the homeownership obligations, as well as for any of the reasons listed in the Statement of Homeownership Obligations.

- In making its decision to terminate homeownership assistance, CHA will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, CHA may on a case-by-case basis choose not to terminate assistance.

- Termination notices will be sent in accordance with the requirements and policies

20.14 DEFAULT

If the family defaults on the mortgage loan, the family will not be able to use the homeownership voucher for rental housing but may reapply for the waiting list if the waiting list is open.

20.15 RECAPTURE

By regulations, CHA cannot recapture any of the HCV Homeownership assistance, unless there is an act of fraud.

21.0 MEDICAL MARIJUANA POLICY

According to HUD Memorandum dated February 10, 2011, "Medical Marijuana Use in Public Housing and Housing Choice Voucher Program":

Marijuana, whether used as medical or recreational marijuana is categorized as a Schedule I drug under the Controlled Substance Act [21 U.S.C. § 801], with a very high potential for abuse and no accepted medical use in the United States.

The Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. § 13661) requires that PHAs administering the Department's rental assistance programs establish standards that prohibit admission into the HCV programs based on the illegal use of controlled substances, including state legalized medical marijuana.

State laws that legalized medical marijuana directly conflict with the admission requirements set forth in QWHRA and are thus subject to federal preemption.

21.1 ADMISSION [42 U.S.C. § 13661(b)(1)

Based on federal laws, new admission of medical marijuana users are prohibited into the HCV program. CHA will not admit new applicants into the Section 8 HCV Program who are "currently engaged" in the use of marijuana whether it be recreational or medically.

- Currently engaged in is defined as any use of illegal drugs during the previous twelve (12) months.

21.2 REASONABLE ACCOMMODATION

A person seeking a reasonable accommodation to allow the use of medical marijuana that are not "individuals with a disability" [under Section 504 of the Fair Housing Act and the Americans with Disabilities Act (ADA), does not qualify for a reasonable accommodation to allow the use of a medical marijuana.

CHA will not permit the use of medical marijuana as a reasonable accommodation because such accommodations are not reasonable under the Fair Housing Act and would constitute a fundamental alteration in the nature or operations of the program (HUD Memorandum dated February 10, 2011, "Medical Marijuana Use in Public Housing and Housing Choice Voucher Program", pg. 1-2).

CHA will not grant a reasonable accommodation that would allow the tenants to grow, use, otherwise possess, or distribute medical marijuana, even if in doing so such tenants are complying with state laws authorizing medical marijuana related conduct.

21.3. MEDICAL EXPENSES DEDUCTION

Costs associated with medical marijuana are not qualified for deductions from income. Such as, but not limited to:

- State medical marijuana registration card
- Prescription medical marijuana
- Nonprescription/herbal marijuana

21.4 CURRENT HCV PARTICIPANTS

For existing HCV participants, the CHA will terminate program participation of households when found to have engaged in medical marijuana while participating in the program.

CHA has the discretion to terminate assistance for individual marijuana users, rather than the entire household, when appropriate.

21.5 TERMINATION OF ASSISTANCE

If CHA becomes aware that a participant uses medical marijuana, the CHA may terminate housing assistance if it determines that such illegal use, or pattern of illegal use of any household member:

- Commits a criminal activity (including drug-related, and violent criminal activity)
- Presents a threat to the health, safety, or right to peaceful enjoyment of the premise by other residents
- Is in possession of a controlled substance paraphernalia, or associated item or action that is not strictly within the limits of Maine law.

CHA will decide whether to terminate assistance on the grounds of use of medical marijuana on a case-by-case basis.

21.6 DEFINITION

Drug means a controlled substance, as defined in section 102 of the Federal Controlled Substances Act (21 U.S.C. 802), and its illegal use, as defined under federal guidelines, is prohibited. This includes medical and recreational marijuana.

Medical Marijuana - Medical Marijuana refers to the use of cannabis or marijuana, including constituents of cannabis, THC and other cannabinoids, a physician recommended form of medicine of herbal therapy

22.0 SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601].

CHA will not approve a lease for any of the following special housing types, except as a reasonable accommodation for a family with disabilities:

1) Single Room Occupancy

2) Congregate housing

3) Group homes

4) Shared housing

5) Cooperative housing

If a lease is approved as a reasonable accommodation for a family with disabilities in Any of the above special housing types, the CHA will comply with the federal regulations in effect at the time of the approval of such lease.

22.1 SINGLE ROOM OCCUPANCY [24 CFR 982.602 through 982.605]

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. Regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing voucher assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

A. Payment Standard, Utility Allowance and HAP Calculation

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the PHA's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

B. Housing Quality Standards (HQS)

HQS requirements apply to SRO housing except as modified below.

- *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety*: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

  Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply [24 CFR 982.605].

- *Sanitary Facilities*: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security*: An SRO unit must contain at least 110 square feet of floor space, and at least four-square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

  Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

22.2 CONGREGATE HOUSING [24 CFR 982.606 through 982.609]

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or 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.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

A. Payment Standard, Utility Allowance, and HAP Calculation

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

B. Housing Quality Standards (HQS)

HQS requirements apply to congregate housing except for the requirements stated below.

- Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.

- The housing quality standards applicable to lead-based paint do not apply.

22.3 GROUP HOME [24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home 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.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

B. Housing Quality Standards (HQS)

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be zero- or one-bedroom, depending on the PHA's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the group home size. The prorata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorata portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

C. Housing Quality Standards (HQS)

HQS requirements apply to group homes except for the requirements stated below.

- *Sanitary Facilities*: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service*: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security*: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material*: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood*: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:
    - Dangerous walks or steps
    - Instability
    - Flooding, poor drainage
    - Septic tank back-ups
    - Sewage hazards
    - Mud slides
    - Abnormal air pollution
    - Smoke or dust
    - Excessive noise
    - Vibrations or vehicular traffic
    - Excessive accumulations of trash
    - Vermin or rodent infestation, and
    - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

22.4 SHARED HOUSING [24 CFR 982.615 through 982.618]

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for 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.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

A. Payment Standard, Utility Allowance, and HAP Calculation

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the prorata share of the payment standard for the shared housing unit size.

The prorata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the lower of the utility allowance for the family unit size (voucher size) or the prorata share of the utility allowance for the shared housing unit.

Example: A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals $200

The utility allowance for a 2-bedroom unit equals $100

The prorata share of the utility allowance is $150 (3/4 of $200)

The PHA will use the 2-bedroom utility allowance of $100.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA should consider whether sanitary and food preparation areas are private or shared.

B. Housing Quality Standards (HQS)

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family*: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security*: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size. A zero-bedroom or one-bedroom unit may not be used for shared housing.

22.5 COOPERATIVE HOUSING

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged "rent" a cooperative member is charged a "carrying charge."

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

A. Payment Standard, Utility Allowance, and HAP Calculation

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

B. Housing Quality Standards (HQS)

All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements.

23.0 VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

23.1 DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

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

- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

    - The length of the relationship

    - The type of relationship

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

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- The term *affiliated individual* means, with respect to a person:

    - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or

    - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

- The term *sexual assault* means:

- Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent

- The term *stalking* means:

  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

23.2 NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The CHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

CHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

- A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

- A copy of CHA's emergency transfer plan (Exhibit 16-3)

- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

- Contact information for local victim advocacy groups or service providers

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

CHA will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. CHA will also include information about VAWA in all notices of denial of assistance.

CHA will provide all participants with information about VAWA at the time of and at annual reexamination. CHA will also include information about VAWA in notices of termination of assistance.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 23-1 and 23-2.

The CHA is not limited to providing VAWA information at the times specified in the above policy.

Whenever CHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, CHA may decide not to send mail regarding VAWA protections to the victim's unit if CHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, CHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

Notification to Owners and Managers

CHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

23.3 DOCUMENTATION [24 CFR 5.2007]

If CHA is presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The CHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy CHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.

2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record

3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical 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.

The CHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 10 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The CHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the CHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the CHA will be in writing.

Once the victim provides documentation, CHA will acknowledge receipt of the documentation within 10 business days.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where CHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The CHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA.

Individuals have 30 calendar days to return third-party verification to the CHA. If CHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the CHA must hold separate hearings for the tenants [Notice PIH 2017-08].

CHA must honor any court orders issued to protect the victim or to address the distribution of property.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

CHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

Failure to Provide Documentation [24 CFR 5.2007(c)]

To deny relief for protection under VAWA, CHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the

documentation within 14 business days from the date of receipt, or such longer time as the CHA may allow, CHA may deny relief for protection under VAWA.

23.4 CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the CHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that CHA:

1) May not enter the information into any shared database;

2) May not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work; and

3) May not provide the information to any other entity or individual, except to the extent that the disclosure is

    a.) requested or consented to by the individual in writing,

    b.) required for use in an eviction proceeding, or

    c.) otherwise required by applicable law.

EXHIBIT 23.1: Notice of Occupancy Rights Under the Violence Against Women Act, Form HUD-5380

Caribou Housing Authority
Notice of Occupancy Rights under the Violence Against Women Act[2]

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[3] The U.S. Department of Housing and Urban Development (HUD) is the federal agency that oversees that the housing choice voucher program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under the housing choice voucher program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under the housing choice voucher program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

---

[2] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

[3] Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Removing the Abuser or Perpetrator from the Household

The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the PHA must follow federal, state, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
2. **You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families. The PHA's emergency transfer plan provides further information on emergency transfers, and the PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

The PHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The PHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PHA as documentation. It is your choice which of the following to submit if the PHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.

- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.

- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

Confidentiality

The PHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PHA must not allow any individual administering assistance or other services on behalf of the PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The PHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

- You give written permission to the PHA to release the information on a time limited basis.
- The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA or your landlord to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PHA can demonstrate the above, the PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

For Additional Information

- You may view a copy of HUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

- Additionally, the PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

- For questions regarding VAWA, please contact Hope and Justice.

- For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact Hope and Justice.

- For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

- For help regarding sexual assault, you may contact Hope and Justice

- Victims of stalking seeking help may contact Hope and Justice

- Attachment: Certification form HUD-5382 [form approved for this program to be included]

EXHIBIT 23.2: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, FORM HUD-5382

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION	U.S. Department of Housing and Urban Development	OMB Approval No. 2577-0286 Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.

(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Date the written request is received by victim: _____**

2. **Name of victim: _____**

3. **Your name (if different from victim's):_____**

4. **Name(s) of other family member(s) listed on the lease:_____**

_____

5. **Residence of victim: _____**

6. **Name of the accused perpetrator (if known and can be safely disclosed):_____**

_____

7. **Relationship of the accused perpetrator to the victim:_____**

8. **Date(s) and times(s) of incident(s) (if known):_____**

_____

10. **Location of incident(s):_____**

In your own words, briefly describe the incident(s):

_____

_____

_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 23.3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, or STALKING (HCV VERSION)

Attachment: Certification form HUD-5382

Caribou Housing Authority
Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
Housing Choice Voucher Program

Emergency Transfers

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),[4] the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.[5] The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

---

[4]Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

[5]Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR

2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Emergency Transfers: Housing Choice Voucher (HCV) Program

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at: https://ohl.rainn.org/online/.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at: https://www.victimsofcrime.org/our-programs/stalking-resource-center.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

EXHIBIT 23.4: Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, form HUD-5383

EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286 , Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer; you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include,

but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's)_____

3. Name(s) of other family member(s) listed on the lease:_____

_____

4. Name(s) of other family member(s) who would transfer with the victim:_____

_____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim:_____

7. Name of the accused perpetrator (if known and can be safely disclosed):_____

8. Relationship of the accused perpetrator to the victim:_____

9. Date(s), Time(s) and location(s) of incident(s):_____

_____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer?

_____ Yes, Skip question 11

_____ No, continue to question 11

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

_____

_____

12. If voluntarily provided, list any third-party documentation you are providing along with this notice:

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____Signed on (Date) _____

EXHIBIT 23.5-MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS

Caribou Housing Authority
NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS
UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

Purpose

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through **[insert name of housing provider]** HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

Denial of Tenancy

*Protections for applicants***:** Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

Eviction

*Protections for HCV participants***:** Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

Limitations of VAWA protections:

a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

2) The distribution or possession of property among members of a household in a case.

b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner

does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

ii. Any eviction due to "actual and imminent threat" should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD's regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:

2) Signed by the applicant or tenant; and

3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the

applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

a. Deny admission by the applicant or tenant to the housing or program;

b. Deny assistance under the covered housing program to the applicant or tenant;

c. Terminate the participation of the tenant in the covered housing program; or

d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

Moves

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

Lease Bifurcation

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be affected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

Evictions Due to "Actual and Imminent Threat" or Violations Not Premised on Abuse

The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

To demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

Confidentiality

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

a. Requested or consented to in writing by the individual (victim) in a time-limited release;

b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or

c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

Service Providers

[insert name of housing provider] has extensive relationships with local service providers. **[insert name of housing provider]** staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in **[insert name of housing provider]** Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

Definitions

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential

harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

Affiliated individual, with respect to an individual, means:

(1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or

(2) Any individual, tenant, or lawful occupant living in the household of that individual.

Bifurcate means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

Dating violence means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person’s individual safety or the safety of others; or

(2) Suffer substantial emotional distress.

VAWA means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

Attached:

Legal services and the domestic violence resources for the Metro area

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

24.0 OWNERS

Owners play a major 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.

24.1 OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6; HCV Landlord Strategy Guidebook for PHAs]

Recruitment

The CHA will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The CHA 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
- Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

Outreach strategies will be monitored for effectiveness and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

All CHA activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, to minimize vacancy losses for owners.

The CHA will provide owners with a handbook that explains the program, including HUD and PHA policies and procedures, in easy-to-understand language.

The CHA will give special attention to helping new owners succeed through activities such as:

- Coordinating inspection and leasing activities between the CHA, 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 through a landlord handbook, including answers to frequently asked questions.
- Contacting owners via emails or texts to disseminate information.

Additional services may be undertaken on an as-needed basis, and as resources permit.

24.2 OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Complying with 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 the PHA information required under the HAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1))

24.3 OWNER QUALIFICATIONS [24 CFR 982.306]

The owner must be qualified to participate in the program. Prior to executing a HAP contract and processing housing assistance payments, CHA must determine that the owner of the assisted unit is eligible to participate in the HCV program. Therefore, upon receiving an RTA or prior to a change of ownership and/or management, CHA shall screen new owners/property managers or current owners/property managers (if not screened within the last 12 months).

A. CHA will not approve an assisted tenancy if:

1) **Owners Barred** from Participation [24 CFR 982.306(a) and (b)]

The CHA must not approve the assisted tenancy if the PHA 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 CHA 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.

2) When directed by HUD:

a) The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or

b) A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements

3) **Leasing to Relatives** [24 CFR 982.306(d), HCV GB p. 11-2]

CHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The CHA 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.

4) **Conflict of Interest** [24 CFR 982.161; HCV GB p. 8-19]

The CHA 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:

a.) Any present or former member or officer of the PHA (except a participant commissioner)

b.) Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs

c.) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs

d.) 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. The CHA must submit a waiver request to the appropriate HUD Field Office for determination.

B. CHA may choose not to approve an assistance tenancy if: [24 CFR 982.306(c)]

1) The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);

2) The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

3) The owner has engaged in any drug-related criminal activity or any violent criminal activity within the last five years;

4) The owner has been convicted of arson or a crime that requires them to be registered under a state sex offender registration program.

5) 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;

6) 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:

7) Threatens the right to peaceful enjoyment of the premises by other residents;

    a) Threatens the health or safety of other residents, of employees of CHA, or of owner employees or other persons engaged in management of the housing;

    b) 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

8) The owner has a history or practice of renting units that fail to meet state or local housing codes; or

9) The owner has not paid state or local real estate taxes, fines, or assessment, has outstanding debt(s) to the CHA and/or another public housing authority or has foreclosure activity;

10) The owner has engaged in violent behavior toward CHA's personnel (including a CHA employee, CHA contractor, subcontractor or agent); or

11) The owner fails to prove legal ownership of unit.

12) In considering whether to disapprove owners for any of the discretionary reasons listed above, CHA 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, CHA may, on a case-by-case basis, choose to approve an owner.

If the CHA disapproves an owner, it will not terminate the HAP contract for families that are already living in the owner's properties unless the owner has violated the HAP contract for such units. When applicable, owners may request a review of the CHA's decision to deny an RTA and/or terminate a HAP contract.

24.4 OWNER SUSPENSION

Owners that meet the following criteria will be issued a formal warning letter and be required to attend an upcoming CHA-HQS Training.

- For smaller owners (20 units or less in HCV), they have two or more HAP contract terminations due to HQS violations.
- For larger owners (21 units or more), 10% or more of their HAP contracts have been terminated due to HQS violations.

Owners are not allowed to enter into any new HAP contracts until they attend a CHA-HQS Training, which should occur within 60 days of being issued a warning. However, on a case by case basis, CHA may allow this to happen outside of this designated timeframe. Moreover, an owner who was recently issued a warning letter, but has not yet attended an HQS Training (prior to the 60 days expiring) may submit an RTA. However, moving forward with the lease up process is contingent on the owner attending the next training.

If an owner meets these requirements, but then subsequently has a HAP contract termination due to HQS within the next 12 months, they will be added to the Do Not Lease list and have a moratorium on new HAP contracts for a year subject to the requirements to lift the suspension listed below.

If CHA becomes aware of owners that are creating additional vendor ID's with the purpose of circumventing this policy, we reserve the right to place them on the Owner Suspension List.

Requirements to Lift a Suspension

For the suspension to be lifted, a year must pass.

If an owner has met the requirements to be removed (served one year) from the Suspension List, but has additional HAP contract terminations due to HQS violations during the suspension period, CHA will remove them from the Suspension List. However, they will be placed back in Warning status and, if any HAP contracts are terminated due to HQS violations within the next

12 months (the 12 months starts the date they are placed back into Warning status) they will return to the list.

Owners Meeting Suspension Criteria for a Second Time

Property owners placed on the Suspension List, removed (due to meeting all the requirements), and then subsequently exceeds the suspension criteria for a second time, will return to the list to serve a second one-year suspension. Additionally, they will be required to attend another HQS Training.

Owners currently suspended, but have had subsequent HAP contract terminations due to HQS will be removed from the list on a case-by-case basis (using the same factors outlined above). However, no owner that meets this criterion will be removed from the list without attending a CHA-HQS Training.

24.5 OWNER DO NOT LEASE LIST

Any owner who is suspended from the HCV Program will be placed on CHA's Do Not Lease List for a specified period of time.

A. Reasons

Owners may be placed on this list for the following reasons:

1) Criminal Background Issue-Criminal Activity

The suspension period lasts three years from the date of conviction or release from a correctional institution. If parole or supervised release is a condition of the sentence, suspension will remain in place for three years after the sentence is successfully completed.

2.) Criminal Background Issue-Arson, Sex offender, Child Molestation

If an owner is convicted of arson or is placed on the lifetime sex offender registry list, they remain on the list permanently.

For owners who have been required to register on the Maine Sex Offender Registry for a defined period of time, the suspension lasts as long as the owner is required to register.

3.) HUD Debarment

Owners remain on the list until they are removed from the HUD Debarment List.

4.) City's Problem Landlord/Problem Building Owner List

The owners on this list have three or more serious building code violations. Owners remain on the list until they are removed from the City's Problem Landlord/Problem Building Owner List.

5.) Committed Fraud

Any owner placed on the list due to proven allegations of fraud against the CHA remains on the list for at least three years. If the fraud has resulted in the owner owing money to the CHA, they will not be removed until the entire amount is paid back.

6.) Lead Violation

If an owner is placed for knowingly falsifying information regarding lead paint, they are placed on the list for a three-year period.

7.) HAP Contract Terminations due to HQS Violations

If an owner is suspended for too many HQS fails as determined by the Owner Suspension Guidelines, the owner will be subject to the Do Not Lease list. Upon first offense, owners will be placed on the list for one year for the first violation. However, any subsequent violations result in a three-year suspension.

8.) Engaging in Physical or Verbal Abuse Towards CHA Personnel

CHA reserves the right to place on the Do Not Lease List for up to three years any owner who engages in physical or verbal abuse towards CHA personnel (including CHA employee, CHA contractor, subcontractor, agent). To be removed the owner will be required to attend an Owner Briefing.

9.) Fair Housing Violations

CHA reserves the right to place on the Do Not Lease List for up to three years any owner who violates any state, local, or federal fair housing law.

10.) HAP Contract and Other Violations

CHA reserves to right to place on the Do Not Lease List for up to three years any owner who violates the HAP Contract or any federal, state, or local law as it relates to landlord-tenant issues.

B. Procedures for Adding Owners to the Do Not Lease List

Upon receiving information that an owner may fall into one of the categories listed above, a staff member will notify the owner that they are being placed on the Do Not Least List. If there is a Request for Tenancy Approval being processed, the owner and tenant will receive a letter stating that the unit is currently ineligible to participate in the HCV program. The letter will state the reason for the suspension and how long the suspension is anticipated to be effective.

For a suspension lasting up to one (1) year: the owner will be placed on the Do Not Lease list and be informed of his/her right to contest the decision through submitting documents or meeting

with a staff member. Only after staff has determined that the suspension decision was made in error will the owner be removed from the Do Not Lease list.

For a suspension lasting more than one (1) year: staff will send the owner notification of the decision to place the owner on the Do Not Lease list indicating the effective date of the suspension. The notice will inform the owner of his/her right to contest the decision by either submitting documents or meeting with a staff member. If no communication is received to contest the suspension decision, suspension becomes effective on the original notice date.

CHA staff will review the HUD Debarment List, and City's Problem Landlord List, on a quarterly basis. CHA staff will add or remove owner's names in accordance with the procedures and policies outlined above. For owners who are placed on the Do Not Lease List for HAP Contract Termination due to HQS Violations, CHA will review those names monthly.

C. Opportunities for Dispute

Once CHA has sent notice to the owner of either the suspension or its intention to place the owner on the Do Not Lease list, the owner shall have thirty (30) days to contest the decision. This may be done through written documents, telephonically, or in-person. To contest the decision in-person, the owner must schedule a meeting with a designated CHA representative within 30 days of the date on the notification letter. After hearing and/or reading any evidence against the reason for the owner's suspension, the designated CHA representative will send the owner notification within 30 days of the decision to either uphold or overturn the suspension. In the case where the owner has already been placed on the Do Not Lease list, the letter will indicate that the owner has been removed from the list.

24.6 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 the CHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the CHA.

25.0 PROGRAM INTEGRITY

25.1 PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. PHAs are further required to:

To ensure that CHA's HCV program is administered according to the highest ethical and legal standards, CHA will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- CHA will discuss program compliance and integrity issues during the voucher briefing sessions.
- CHA will provide each applicant and participant with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- CHA will provide each applicant and participant with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, CHA will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- CHA will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key CHA forms and form letters that request information from a family or owner.
- CHA staff will be required to review and explain the contents of all HUD- and CHA-required forms prior to requesting family member signatures.
- At every regular reexamination, CHA staff will explain any changes in HUD regulations or CHA policy that affect program participants.
- CHA will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.
- CHA will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.
- CHA will provide each CHA 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.

25.2 DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, the CHA 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 the PHA 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].

In addition to the SEMAP quality control requirements, CHA will employ a variety of methods to detect errors and program abuse.

- CHA routinely will use HUD and other non-HUD sources of up-front income verification.
- 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.
- CHA will compare family-reported income and expenditures to detect possible unreported income.
- CHA will complete a quarterly over-housed, multi-subsidy and deceased tenant review.

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 PHA activities and notifies the PHA of errors and potential cases of program abuse.

*Individual Reporting of Possible Errors and Program Abus*e

CHA will encourage staff, program participants, and the public to report possible program abuse.

25.3. INVESTIGATING ERRORS AND PROGRAM ABUSE

When the PHA Will Investigate

CHA will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. For CHA 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.

CHA will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

The CHA may investigate possible instances of error or abuse using all available CHA and public records. If necessary, CHA will require HCV families to sign consent forms for the release of additional information.

Analysis and Findings

CHA 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 CHA will determine

1) Whether an error or program abuse has occurred,

2) Whether any amount of money is owed CHA, 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 the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, CHA will take into consideration:

1) The seriousness of the offense and the extent of participation or culpability of individual family members,

2) Any special circumstances surrounding the case,

3) Any mitigating circumstances related to the disability of a family member,

4) 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, CHA 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

CHA 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 CHA 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

25.4 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.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the CHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

Increases in the family share will be implemented on the first of the month following a written 30-day 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 the PHA or the PHA 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.

25.5 FAMILY-CAUSED ERRORS OR 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 the PHA to use incorrect information provided by a third party.

Family Reimbursement to CHA **[**HCV GB pp. 22-12 to 22-13**]**

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. CHA may, but is not required to, offer the family a repayment agreement in accordance policies. If the family fails to repay the excess subsidy, CHA will terminate the family's assistance in accordance with the policies.

CHA Reimbursement to Family [HCV GB p. 22-12]

The CHA 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 the PHA [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)].

Any of the following will be considered evidence of family program abuse:

- Payment to the owner more than amounts authorized by the CA for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to CHA Board of Commissioners, employees, contractors, or other CHA 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 CHA 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)
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)

- Admission of program abuse by an adult family member

CHA 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 the PHA may, at its discretion, impose any of the following remedies.

- The CHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The CHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.
- The CHA may deny or terminate the family's assistance following the policies.
- The CHA may refer the family for state or federal criminal prosecution.

25.6 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 the CHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the CHA any excess subsidy received. CHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the CHA may allow the owner to pay in installments over a period [HCV GB p. 22-13].

Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to the PHA [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)]

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by CHA

- 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 the PHA Board of Commissioners, employees, contractors, or other CHA representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to CHA
- Residing in the unit with an assisted family
- Committing sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes
- Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes

Remedies and Penalties

When CHA determines that the owner has committed program abuse, the CHA 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
- Terminate the HAP contract.
- Bar the owner from future participation in any CHA programs.
- Refer the case to state or federal officials for criminal prosecution

25.7 CHA-CAUSED ERRORS OR PROGRAM ABUSE

PHA-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 the CHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by CHA staff [HCV GB. 22-12].

CHA Reimbursement to Family or Owner

CHA 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 the CHA's administrative fee reserves [HCV GB p. 22-12].

Prohibited Activities

Any of the following will be considered evidence of program abuse by CHA staff:

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements because 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 CHA
- Disclosing confidential or proprietary information to outside parties
- Gaining profit because of insider knowledge of CHA 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

25.8 CRIMINAL PROSECUTION

When CHA determines that program abuse by an owner, family, or CHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, CHA 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.

25.9 FRAUD AND PROGRAM ABUSE RECOVERIES

The CHA may retain a portion of program fraud losses that the CHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The CHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due because of fraud and abuse. 24 CFR 792.202 permits the CHA to retain the greater of:

- 50 percent of the amount it collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA 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 the CHA related to the collection, these costs must be deducted from the amount retained by the CHA.

26.0 PROGRAM ADMINISTRATION

26.1 EIV REPORTS

A. Deceased Tenant Report

CHA shall generate the EIV's Deceased Tenants Report monthly shortly before disbursing HAP payments to owners to see if the system flags deceased residents. CHA shall review the report and follow up with any listed families immediately and take any necessary corrective action as set forth in PIH Notice 2010-50 or successor publications.

If it is a single member household, notify the owner in writing of the deceased Head of Household and suspend HAP payments for any month following the month in which the death occurred. If the property is occupied by a live-in-aide to the deceased person, the assistance will end and the landlord and aide must decide on the future of the aide's tenancy.

If an owner received HAP for any month in which the owner was ineligible to receive HAP because of a deceased tenant, the CHA will immediately notify the owner in writing of the ineligible HAP and require the owner to repay the overpayment within 30 days.

- If the owner does not comply, the CHA will deduct the amount due to the Agency from any amounts due to the owner under any other HAP contract.

- If there is no other HAP contract with the owner, the CHA may seek and obtain additional relief by judicial order or action in accordance with state and local laws.

If the remaining member of a tenant family is a minor or minors, it may be necessary for an adult to temporarily move into a unit to serve as a guardian for children residing in the unit. The income received by the temporary guardian will be counted in determining family income. Although typically a criminal background check is required before anyone can receive Housing Choice Voucher assistance, this requirement will be waived for a guardian in this situation. Instead, the background check will occur after the person moves in. If the results of the check dictate that the person is ineligible for the program, the family shall be given a reasonable time to find a replacement guardian or lose the assistance.

B. New Hires Report

CHA shall generate the New Hires Report bi-monthly to see if the system flags any participants have new income. Staff will review the report and follow up with any listed families immediately and take any necessary correction.

If a family is found to have new income that has not been reported to CHA, CHA will take the follow actions:

1.) CHA will mail a "Congratulation" letter to the family, giving them 10 days to report the change or provide documentation disputing the income. A copy of the New Hires report will be sent with the letter.

2.) If the family does not respond to the first mailing, CHA will send out a second mailing giving the family another 10 days to respond; or

3.) If the family did respond, CHA will review the income change, calculating what the HAP should have been if the income was reported within a timely manner.

    a. If an overpayment in HAP is found, CHA will offer a Repayment Agreement.

4.) After the second mailing, if still no response, CHA will start the termination process according to policies.

C. Multiple Subsidy Report

CHA will generate the Multiple Subsidy Report monthly.

D. Identity Verification Report

CHA will generate an Identity Verification Report monthly.

E. Immigration Report

CHA will generate an Immigration report monthly.

26.2 ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The CHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses more than administrative fees paid by HUD for a CHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for "other housing purposes permitted by state and local law," in accordance with 24 CFR 982.155(b)(1).

If CHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the CHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the CHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

- Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed $10,000 per occurrence without the prior approval of the CHA's Board of Commissioners.

26.3 SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
- PHAs with an overall rating of "troubled" are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated "troubled" may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

A. SEMAP Certification [24 CFR 985.101]

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as "troubled" [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

A PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

B. SEMAP Indicators [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the waiting list **Maximum Score: 15** • This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.
Indicator 2: Rent reasonableness **Maximum Score: 20** • This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units • Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.
Indicator 3: Determination of adjusted income **Maximum Score: 20** • This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent. • Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.
Indicator 4: Utility allowance schedule **Maximum Score: 5** • This indicator shows whether the PHA maintains an up-to-date utility allowance schedule. • Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.
Indicator 5: HQS quality control inspections **Maximum Score: 5**

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspection's were completed, according to the PHA's certification.

Indicator 6: HQS enforcement

Maximum Score: 10

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

Indicator 7: Expanding housing opportunities

Maximum Points: 5

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

Indicator 8: FMR limit and payment standards

Maximum Points: 5 points

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

Indicator 9: Annual reexaminations

Maximum Points: 10

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations

Maximum Points: 5

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections

Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections

Maximum Points: 10

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up

Maximum Points: 20 points

- This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.
- Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances

Maximum Points: 10

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required, and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

- **Success Rate of Voucher Holders**

Maximum Points: 5

- Only applies to PHAs that have received approval to establish success rate payment standard amounts, and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

- **DE concentration Bonus Indicator**

Maximum Points: 5

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50 percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

26.4 RECORD KEEPING

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

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

A. . Record Retention [24 CFR 982.158]

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

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

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

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting CHA budget and financial statements for the program;
- Records to document the basis for CHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.
- Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

CHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, and stalking under the CHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [24 CFR 5.2002(e)(12)].

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16-III.D., Retention of Documents.

B. Records Management

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

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

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

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

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

Upfront Income Verification (UIV) Records

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD-issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

Criminal Records

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

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

The CHA must establish and implement a system of records management that ensures that any sex offender registration information received by CHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the

purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the CHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 CFR 5.905.

Medical/Disability Records

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

Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

For requirements and CHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-IX.E.

26.5 REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

The CHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the CHA is subject to.

A. Reporting Requirements [24 CFR 35.1225(e); Notice PIH 2017-13]

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days. The CHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

Upon notification by the owner, CHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, CHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

B. Data Collection and Record Keeping [24 CFR 35.1225(f)]

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

26.6 DETERMINATION OF INSUFFICIENT FUNDING

A. Overview

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.354(e)(1) and 982.454]. If CHA denies a family a portability move based on insufficient funding, CHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact the CHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the CHA will use to determine whether CHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

B. Methodology

CHA 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 CHA's annual budget authority to the annual total HAP needs monthly. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, CHA 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 CHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, CHA will be considered to have insufficient funding.

If it is determined that there is insufficient funding, CHA may suspend issuing voucher, discontinue moves, discontinue entering any new HAP Contracts, and may also terminate HAP Contracts.

GLOSSARY

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

AAF	Annual adjustment factor (published by HUD in the *Federal Register* and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations")
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HA	Housing authority or housing agency
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System

IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency

TANF	Temporary assistance for needy families
TPV	Tenant protection vouchers
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

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

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

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

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

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual. Happening once a year.

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

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area exception rent. An amount that exceeds the published FMR. See 24 CFR 982.504(b).

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Biennial. Happening every two years.

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

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

Child. *A* member of the family other than the family head or spouse who is under 18 years of age.

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

Citizen. *A* citizen or national of the United States.

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

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

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

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

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

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

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

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

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

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

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

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

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

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

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

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

Disabled person. See *person with disabilities.*

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the

jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

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

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

***Economic self-sufficiency program*.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

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

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

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

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

***Evidence of citizenship or eligible status*.** The documents which must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

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

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

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

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

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

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

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). See 24 CFR 5.603.

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

Gender identity. Actual or perceived gender-related characteristics.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

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

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

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

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

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

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

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

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

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

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed $5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for eligibility. Annual income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages, and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. See *person with disabilities.*

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

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

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Landlord. Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

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

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

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

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

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

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

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

***Monthly adjusted income*.** One twelfth of adjusted income.

***Monthly income*.** One twelfth of annual income.

Mutual housing. Included in the definition of *cooperative.*

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

***Near-elderly family*.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

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

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

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

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

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

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

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

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

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

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

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

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

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

Portability. Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Private space. In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

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

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least $500.

Qualified census tract. With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

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

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

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

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

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

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

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

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

Section 214 covered programs. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

Single person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

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

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

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

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

Spouse. The marriage partner of the head of household.

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

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

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

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

Tax credit rent. With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Tenancy addendum. For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See *family rent to owner*.

Term of lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

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

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

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

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

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

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(housing choice voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

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

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